17-649

TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

No. 238.

JOHN B. SLAWSON, APPELLANT,

vs.

THE GRAND STREET, PROSPECT PARK AND FLATBUSH RAILROAD COMPANY.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF NEW YORK.

FILED JULY 7, 1880.

SUPREME COURT OF THE UNITED STATES.

No. 238.

JOHN B. SLAWSON, APPELLANT,

vs.

THE GRAND STREET, PROSPECT PARK AND FLATBUSH RAILROAD COMPANY.

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1 The President of the United States of America to the Grand Street, Prospect Park and Flatbush Railroad Company, greeting:

[SEAL.] You are hereby commanded that you personally appear before the judge of the circuit court of the United States of America for the eastern district of New York, in equity, on the first Monday in September, A. D. 1878, wheresoever the court shall then be, to answer a bill of complaint exhibited against you in the said court by John B. Slawson, and to do further and receive what the said court shall consider in that behalf, and this you are not to omit under the penalty on you and each of you of two hundred and fifty dollars.

Witness the Hon. Morrison R. Waite, Chief Justice of the Supreme Court of the United States, at the city of Brooklyn, on the 23d day of July, in the year of our Lord one thousand eight hundred and seventy-eight.

B. LINCOLN BENEDICT.

GEO. GIFFORD,
Complainant's Solicitor, 32 Park Place.

2 The defendant is required to enter appearance in the above cause in the clerk's office of this court on or before the first Monday of September, 1878, or the bill will be taken pro confesso against it.

B. LINCOLN BENEDICT, *Clerk.*

GEORGE GIFFORD,
Complainant's Solicitor.

Return of marshal.

I certify that on the 19th day of August, 1878, in my district, I personally served the within subpœna on the within-named Grand Street, Prospect Park and Flatbush Railroad Company by showing S. Parkhill, secretary of said R. R. company, this original, and leaving with him a copy thereof.

Sept. 2d, 1878.

S. R. HARLOW,
U. S. Marshal.

(Endorsed:) Subpœna ad respondendum. Filed and entered September 2, 1878.

3 In the circuit court of the United States. In equity.

To the honorable the judges of the circuit court of the United States for the eastern district of New York:

John B. Slawson, residing and doing business in the city of New York, in the State of New York, brings this his bill of complaint against the Grand street, Prospect Park and Flatbush Railroad Company, a corporation organized under the laws of the State of New York, and located and doing business at the city of Brooklyn, in said State.

And thereupon your orator complains and says that he is the original and, as he believes, the first inventor of new and and useful improve-

ments in passenger-fare-boxes, fully described in the letters patent hereinafter mentioned, and which had not been known or used before his said invention, and which had not been more than two years prior to his application for a patent, as hereinafter mentioned, in public use or on sale with his consent or allowance.

And your orator further shows unto your honors that he, being so as aforesaid the first inventer and discoverer of said improvements, and being also a citizen of the United States, did on the 28th day of July, 1857, upon due application therefor, obtain letters patent of the United States for said invention, in due form of law, under the seal of the Patent Office of the United States, signed by the Secretary of the Interior, and countersigned by the Commissioner of Patents of the United States,
4 bearing date the day and year last aforesaid, whereby there was granted and secured to him, his heirs, administrators, or assigns, or intended so to be, for the term of fourteen years from and after the date of said letters patent, the full and exclusive right and liberty of making, constructing, using, and vending to others to be used, the said invention and improvements, as set forth in said letters patent, which are now remaining on record in the Patent Office of the United States; and by virtue whereof he became and was the sole owner of all the rights and privileges granted and secured thereby.

And your orator further shows unto your honors that your orator having, for good and lawful cause, surrendered said letters patent to the Commissioner of Patents, and having made due application therefor, and having in all things complied with the acts of Congress in such case made and provided, did, on the 4th day of May, 1858, obtain new letters patent, being for the same invention, for the residue of said term, and which were marked "Re-issue No. 550," and were issued in due form of law, under the seal of the Patent Office of the United States, signed by the Secretary of the Interior, and countersigned by the Commissioner of Patents, and bearing date the day and year last aforesaid, which said letters patent are now remaining of record in the Patent Office.

And your orator further shows unto your honors that your orator having for good and lawful cause surrendered said last-mentioned letters patent to the Commissioner of Patents, and having made due application therefor, and having in all things complied with the acts of Congress in such case made and provided, did, on the 24th day of January, 1871, obtain new letters patent for the same invention for the residue of said term of fourteen years, which said last-mentioned letters patent were issued in due form of law, under the seal of the Patent Office of the United States, signed by the Secretary of the Interior, and countersigned by the Commissioner of Patents, and bearing date the day and year last afore-
5 said, as by the said last-mentioned letters patent, or a duly authenticated copy thereof, in court to be produced, will appear.

And your orator further shows unto your honors that due application, & having been made therefor, by your orator, and all the forms and requirements of law having been complied with, said last-mentioned letters patent, prior to the expiration of the first term thereof, were duly renewed and extended by the Commissioner of Patentsof the United States for the term of seven years from and after the expiration of their first term of fourteen years, that is to say, from and after the 28th day

of July, 1871, which said renewal and extension was made in due form of law, wherein said Commissioner of Patents having complied with all other requirements in such case made and provided, did prior to the expiration of said first term make and enter upon said last-mentioned letters patent a certificate of such extension, thereby declaring the same to be renewed and extended for the term of seven years from and after the expiration of said first term, to wit, from and after the 28th day of July, 1871, and declaring such extended letters patent to have the same effect in law as though they had been originally granted for the term of twenty-one years, as by said certificate, or a duly authenticated copy thereof, in court to be produced, will appear.

And your orator further shows unto your honors that on the 6th day of September, 1877, he duly entered, by the same being recorded in the Patent Office of the United States, a disclaimer duly attested, in which he disclaimed the following, contained in the specification of said last-mentioned letter patent granted to your orator, that is to say:

"1st. A fare-box composed of two compartments, so combined that the fare, on being deposited through an opening in one of them by the passenger, without the intervention of the driver or conductor, shall be temporarily arrested therein for examination and inspection by the driver
6 or conductor, through an opening therein covered by a transparent medium, and then, when approved of, transferred directly to the second or general receiving compartment, which, as well as the first, is made inaccessible, except by violence, to the driver or other unauthorized person, for the person set forth," as by a duly authenticated copy thereof and certificate of its entry, in court to be produced, will fully appear.

And your orator further shows unto your honors that he is informed and believes that one James F. Winchell was and is the original and first inventor of a new and useful invention in lighting passengers'-fare-boxes, fully described in the letters patent hereinafter mentioned, and which had not been known or used before his said invention, and which had not been more than two years prior to his application for a patent, as hereinafter mentioned, in public use or on sale.

And your orator, on information and belief, further shows unto your honors that said Winchell, being so as aforesaid the first inventor and discoverer of said invention, and having previously assigned his right, title, and interest therein to one Elijah C. Middleton, and being also a citizen of the United States, did, on the 12th day of December, 1871, upon due application therefor, procure letters patent of the United States, to be issued for said invention in due form of law, under the seal of the Patent Office of the United States, signed by the Secretary of the Interior and countersigned by the Commissioner of Patents of the United States, bearing date the day and year last aforesaid, which patent, on request of Winchell, were granted to said Middleton; whereby there was granted and secured to said Middleton, his heirs, administrators, or assigns, or intended so to be, for the term of seventeen years from and after the date of said letters patent,
7 the full and exclusive right and liberty of making, constructing, using, and vending to others to be used, the said invention and improvements, as set forth in said letters patent; as by said letters patent, or a duly authenticated copy thereof, in court to be produced, will appear.

And your orator further shows unto your honors that afterwards, to wit, on or about the 17th day of April, 1873, by an assignment in writing bearing that date, the said Middleton sold, assigned, and transferred unto your orator all his right, title, and interest in and to said letters patent, which assignment was duly recorded in the Patent Office of the United States, as by said assignment and the certificate of such recording thereto affixed, or duly authenticated copies thereof ready in court to be produced, will fully appear.

And your orator further shows unto your honors that by virtue of the premises he became and now is the sole and exclusive owner of both of said letters patent and inventions and of all the rights and privileges granted and secured, or intended to be granted and secured thereby. And that since he became the owner thereof, as aforesaid, he has invested and expended large sums of money, and has been to great trouble in and about said invention, and for the purpose of carrying on the business and manufacturing and selling said inventions and making the same profitable to himself and useful to the public; and that said invention has been and is of great benefit and advantage; and that fare-boxes were made according to said inventions and sold by your orator to great advantage to the public; and that the public have generally acknowledged and acquiesced in the aforesaid rights of your orator.

Yet the said defendant, well knowing the premises, and the rights secured to your orator aforesaid, but contriving to injure your orator, and to deprive him of the benefits and advantages which might, and otherwise would, accrue unto him from said inventions after the assignment to your orator as aforesaid, and before the commencement of this suit, did,
8 as your orator is informed and believes, at the city of Brooklyn, in said district, without the license or allowance, and against the will of your orator, and in violation of his rights, and in infringement of each of the aforesaid letters patent, unlawfully and wrongfully, and in defiance of the rights of your orator, use fare-boxes made according to and containing and employing said inventions, all in defiance of the rights acquired by and secured to your orator as aforesaid, and to his great damage, loss, and injury, and by which he has been and still is being deprived of great gains and profits which he might and otherwise would have obtained, but which have been received and enjoyed and are being received and enjoyed by the said defendant by and through its aforesaid unlawful acts and doings.

And your orator further shows unto your honors that the fare-boxes, and the means of lighting the same, used by the defendant as aforesaid, were used together and on the same car.

And your orator further shows unto your honors, on information and belief, that said defendant has used large quantities of said fare-boxes and said means of lighting the same, and has a large quantity on hand, and has made and realized large profits and advantages therefrom; but to what extent, and how much exactly, your orator does not know, and prays a discovery thereof. And your orator says that the continued use of said inventions by said defendant and its other aforesaid unlawful acts, in disregard and defiance of the rights of your orator, have had the effect of causing others to infringe said patents to your orator's great loss and damage.

And your orator further shows unto your honors that he has caused

notice to be given to said defendant of said infringements, and of the rights of your orator in the premises, and requested it to desist and refrain therefrom; but it has disregarded said notice, and refused to desist from said infringements, and has continued to use said fare-boxes and said means of lighting the same.

9 And your orator prays that said defendant, the Grand Street, Prospect Park and Flatbush Railroad Company, its officers, servants, agents, attorneys, and workmen, and each and every of them, may be restrained and enjoined by the order and injunction of this honorable court from directly or indirectly making, constructing, using, vending, delivering, working, or putting into practice, operation, or use, or in any wise counterfeiting or imitating said inventions or either of them, or any part thereof, or any fare-boxes made in accordance therewith, or like or similar to those which it has heretofore used; and that the said defendant may be decreed to pay the costs of this suit; and that your orator may have such further relief, or such other relief, as to this honorable court shall seem meet, and as shall be agreeable to equity.

May it please your honors to grant unto your orator a provisional injunction issuing out of and under the seal of this honorable court, commanding, enjoining, and restraining the said defendant, the Grand Street, Prospect Park and Flatbush Railroad Company, and its officers, servants, agents, attorneys and workmen, and each and every of them during the pendency of this suit, as is hereinbefore in that behalf prayed in regard to a perpetual injunction.

And forasmuch as your orator can have no adequate relief except in this court, to the end, therefore, that the said defendant may, if it can, show why your orator should not have the relief hereby prayed, and may upon its corporal oath, and according to its best and utmost knowledge, remembrance, information, and belief, full, true, direct, and perfect answers make to the premises, and to all the several matters hereinbefore stated and charged, as fully and particularly as if severally and separately interrogated as to each and every of said matters, and may be compelled to account for and pay to your orator the profits by it acquired and the damages suffered by your orator from the aforesaid unlawful acts, and that

10 the court may assess said profits and damages and may increase the damages to a sum not exceeding three times the amount thereof,

May it please your honors to grant unto your orator the writ of subpœna issuing out of and under the seal of this honorable court, directed to the said defendant commanding it by a certain day, and under a certain penalty, to be and appear in this honorable court, then and there to answer the premises, and to stand to and abide such order and decree as may be made against it.

And your orator will ever pray, etc.

J. B. SLAWSON.

GEORGE GIFFORD,
Comp't's Sol'r & of Counsel.

UNITED STATES OF AMERICA:
Southern District of New York, ss:

On this 22d day of July, 1878, before me personally appeared John B. Slawson, the above-named complainant, who, being by me duly sworn, de-

poses and says that he has read the foregoing bill of complaint subscribed by him and knows the contents thereof, and that the same is true of his own knowledge except as to the matters therein stated on information and belief, and as to those matters he believes it to be true.

[L. S.]

W. C. WITTER,
Notary Public N. Y. Co.

(Endorsed:) Bill of complaint. Filed July 23rd, 1878.

11 Circuit court of the United States, eastern district of New York.

JOHN B. SLAWSON
ag'st
THE GRAND STREET, PROSPECT PARK AND FLATBUSH Railroad Company.

SIR: The defendants, The Grand Street, Prospect Park and Flatbush Railroad Company, appear in this suit and pray the court to enter their appearance accordingly by Philip S. Crooke, their solicitor.

Brooklyn, Sept. 2, 1878.

PHILIP S. CROOKE,
Solicitor for Defendants.

To B. LINCOLN BENEDICT, *Clerk.*

(Endorsed:) Notice of appearance. Filed September 2, 1878.

12 *Rule entered September* 2, 1878.

United States circuit court, eastern district of New York.

JOHN B. SLAWSON
vs.
THE GRAND STREET, PROSPECT PARK AND FLATBUSH Railroad Company.

On reading and filing the notice of appearance of The Grand Street, Prospect Park and Flatbush Railroad Company by its solicitor, Philip S. Crooke, it is ordered that the appearance of said defendant by its solicitor be and the same is hereby entered.

13 Circuit court of the United States, eastern district of New York.

To the judges of the circuit court of the United States for the eastern district of New York:

The answer of the Grand Street, Prospect Park and Flatbush Railroad Company, defendants, to the bill of complaint of John B. Slawson, complainant.

This defendant admits it is a corporation organized under the laws of the State of New York, and located and doing business in the city of Brooklyn, in said State.

And this defendant has no knowledge, information, or belief whether the complainant is the first inventor of new and useful improvements in passenger-fare boxes, designated and mentioned in the complaint, and alleged to be described in certain letters patent mentioned in the complaint, or whether the same had not been known or used before his said invention, if he had invented the same; or which had not been in public use or on sale with his consent and allowance more than two years prior to his application for patent, if he made such application. And this defendant, further answering, has no knowledge, information, or belief whether the said complainant, upon due application, obtained letters patent for such claimed invention, as stated in the complaint, for fourteen years, from July 28, 1857; or whether on the 4th day of May, 1858, he obtained new letters patent marked "Reissue 550," as stated in this complaint, or whether he surrendered the same, and on the 24' January, 1871, he obtained new letters patent for the residue of said term of fourteen years; or whether the same was extended seven years from and after July 28, 1871, upon complying with the requirements of the law in that respect, as stated in the complaint; or whether on the 6th day of September, 1877, he duly entered a disclaimer in the Patent Office of the United States, as stated and set forth in the complaint.

14 And this defendant, further answering, has no knowledge, information, or belief whether the complainant is informed and believes that James F. Winchell was and is, or whether he was and is, the original and first inventor of an invention in lighting passenger-fare boxes, described in said complaint and said to be described in letters patent referred to in said complaint, or whether the same had not been known or used before, or had not been in public use or on sale more than two years prior to his application for a patent, as mentioned in said complaint; or whether said Winchell assigned his right, title, and interest therein to one Elijah C. Middleton, and did on the 12th day of December, 1871, procure letters patent to be issued according to law to said Middleton for the term of seven years, the full and exclusive right of making, constructing, using, and vending the said invention, or whether afterwards, on or about 17th day of April, 1873, by an assignment in writing bearing that date, the said Middleton sold, assigned, and transferred unto the complainant all his right, title, and interest in and to said letters patent, or whether the complainant became and now is the sole and exclusive owner of both of said alleged patents and inventions, and all the rights granted and secured thereby, or whether he has invested and expended large sums of money, and has been to great trouble in and about said invention, and for the purpose of carrying on the business and manufacturing and selling said invention, and making the same profitable to himself and useful to the public, or whether said invention (if invention it is) has been and is of great benefit and advantage; or whether fare-boxes were made according to said invention, as claimed, and sold by complainant to the great advantage to the public, and it expressly denies that the public have generally acknowledged and acquiesced in the rights claimed by the complainant as aforesaid.

And this defendant, further answering, expressly denies that the defendant has used fare-boxes and means of lighting the same made
15 according to and employing and containing said claimed inventions.

And they further deny that such fare-boxes and means of lighting the same were used by the defendant together and in the same case.

And this defendant expressly denies that said defendant has used large quantities of said fare-boxes and said means of lighting the same, and have a large quantity on hand, or have made and realized large profits and advantages therefrom; and they expressly deny any and all such charges and statements, and they cannot make any discovery thereof, for the reason that there is nothing to discover. And what other persons may have done in consequence of any acts of the defendant, this defendant has no knowledge, information, or belief, and cannot answer other than is herein stated; nor as to what effect the acts of other persons may have had in this complainant, nor whether he had sustained any loss or damage thereby, can this defendant answer, because he has no knowledge, information, or belief thereof.

And this defendant admits notice given to him of the claim of complainant as to said matters, and requested defendant to desist from infringing thereof.

And this defendant denies all unlawful combination and confederacy within said bill charged, without that any other matter or thing material or necessary for this defendant to make answer unto, and not herein or hereby well and sufficiently answered unto confessed or avoided, traversed or denied, is true to the knowledge or b*ehalf* of this defendant.

All which matters and things this defendant is ready to aver, maintain, and prove, as this honorable court shall direct, and prays to be herein dismissed with his reasonable costs and charges in this behalf most wrongfully sustained.

PHILIP S. CROOKE,
Solicitor for Defendant and of Counsel.

16 UNITED STATES OF AMERICA,
Eastern District of New York, ss:

On this 5th day of October, 1878, before me personally appeared Loftus Wood, president of the defendant, who, being by me duly sworn, deposes and says, that he has read the foregoing answer subscribed by him and knows the contents thereof, and that the same is true of his own knowledge, except as to the matters therein stated on information and belief, and as to those matters he believes it to be true.

That the defendant is a corporation of which deponent is chief officer and president, and the business matters of said corporation are under his control and direction.

B. LINCOLN BENEDICT,
U. S. Commissioner.

(Endorsed:) Answer. Filed October 7, 1878.

17 United States circuit court, eastern district of New York.

JOHN B. SLAWSON, COMPLAINANT,
vs.
THE GRAND STREET, PROSPECT PARK AND FLATBUSH RAILROAD COMPANY, DEFENDANT.
} In equity.

The replication of the above-named complainant, to the answer of the

above-named defendant. This repliant saving and reserving to himself now and at all times hereafter, all and all manner of benefit and advantage of exception which may be had or taken to the manifold insufficiencies of the said answer for replication thereunto, says that he will aver, maintain, and prove his bill of complaint to be true, certain, and sufficient, in the law to be answered unto; and that the said answer of the said defendant is uncertain, untrue, and insufficient, to be replied unto by this repliant, without this, that any other matter or thing whatsoever in the said answer contained material or effectual in the law to be replied unto, and not herein and hereby well and sufficiently replied unto, confessed and
18 avoided, traversed, or denied, is true, all which matters and things this repliant is and will be ready to aver, maintain, and prove, as this honorable court shall direct, and humbly prays as in and by his said bill he has already prayed.

GEO. GIFFORD,
Sol'r and of Counsel for Complainant.

(Endorsed:) Replication. Filed October 17th, 1878.

19 United States circuit court, eastern district of New York. In equity.

JOHN B. SLAWSON
vs.
THE GRAND STREET, PROSPECT PARK AND FLATBUSH RAILROAD COMPANY.

It is hereby stipulated and agreed that the answer in the above-entitled suit be amended by adding thereto the annexed amendment, with the same effect as if said amendment had formed a part of said answer originally, and that no further replication need be filed.

Dated January 13, 1879.

GEO. GIFFORD,
Complainant's Solicitor.

Defendant's Solicitor.

(Endorsed:) Stipulation. Filed January 15th, 1879.

20 Circuit court of the United States, eastern district of New York.

To the judges of the circuit court of the United States for the eastern district of New York:

The amendment to the answer of the Grand Street, Prospect Park and Flatbush Railroad Company, defendants, with bill of complaint of John B. Slawson, complainant.

This defendant, by leave of the court first had and obtained, for further answer and defense to the matters stated in the bill of complaint, answers and says:

That the said , mentioned in said bill of complaint and therein stated to be the first inventor of the patent claimed therein for new and useful improvements in passenger-fare boxes, therein stated, marked "Reissue No. 550," and for which it is stated in said bill of complaint letters

patent were issued Jan. 24, 1871, for residue of term of fourteen years, and stated therein to have been renewed and extended for seven years from July 28, 1871, and on which a disclaimer is stated to have been entered September 6th, 1877, was not the original and first inventor or discoverer of any material and substantial part of the thing patented.

And further, that it had been in public use or on sale in this country for more than two years before his application for a patent for the same.

And for further answer, and to the matters stated in said complaint as to the claim set up on account of the patent claimed to have been invented by James F. Winchell for a new and useful invention in lighting passenger-fare boxes, and assigned to Elijah C. Middleton, and for which
21 letters patent were issued to said Middleton at request of said Winchell December 12, 1871, for the term of seventeen years, and assigned to the complainant April 17, 1873.

This defendant answers and says that the said James F. Winchell was not the original and first inventor or discoverer of any material and substantial part of the thing patented. And further, that it had been in public use or on sale in this country for more than two years before his application for a patent for the same.

And this defendant gives notice that the names and residences of the persons alleged to have had the prior knowledge of each of said things patented, and where and by whom it had been used, and where and by whom each of said things patented had been used, are:

James Rogers; live in the city of New York, No. 134 East 37th street; died July, 1877; used said things patented in the city of New York and in the city of Brooklyn, from the year 1853, to July, 1877; used by the Red Bird line of stages and by Murphy & Co. line of stages, in the city of New York.

By David Mills and William Mills, in the city of Brooklyn, where each resided.

By Loftis Wood, in the city of Brooklyn, his residence.

James Stuart, in South Town, Suffolk County, Long Island; residence in the city of New York.

John Stephenson, assignee of T. Castor (patent July 2, 1861), residence of Castor, Philadelphia; used patent in the city of New York, with prior knowledge; his residence in the city of New York.

LOFTIS WOOD.

PHILIP S. CROOKE,
Solicitor for Defendant and of Counsel.

22 UNITED STATES OF AMERICA,
Eastern District of New York,
State of New York, County of Kings, ss:

On this thirteenth day of January, A. D. 1879, before me, personally appeared Loftis Wood, president of the defendant, who being by me duly sworn, deposes and says, that he has heard read the foregoing answer subscribed by him, read and knows the contents thereof, and the same is true of his knowledge, except as to the matters therein stated on information and belief, and as to those matters he believes it to be true.

That the defendant is a corporation of which deponent is chief officer

and president, and the business matters of said corporation are under his control and direction.

LOFTIS WOOD.

[SEAL.] CHAS. C. BRADY,
Notary Public, Kings County, N. Y.

(Endorsed:) Amended answer. Filed January 15th, 1879.

23 United States circuit court, eastern district of New York. In equity.

JOHN B. SLAWSON
vs.
THE GRAND STREET, PROSPECT PARK AND Flatbush Railroad Company.

On motion of George Gifford, counsel for complainant, it is ordered that B. Lincoln Benedict, esq'r., be, and he is hereby, appointed a special examiner to take testimony in the above-entitled suit.

Dated Nov. 25th, 1878.

CHAS. L. BENEDICT,
U. S. Judge.

(Endorsed:) Order appointing special examiner. Filed November 25th, 1878.

24 United States circuit court, eastern district of New York.

J. B. SLAWSON
vs.
THE GRAND STREET, PROSPECT PARK AND Flatbush Railroad Co.

Testimony taken on behalf of complainant before B. Lincoln Benedict, special examiner.

NOV. 25TH, 1878.

Appear George Gifford, for complainant; P. S. Crooke, for defendant.

Counsel for complainant offers in evidence:

1st. Certified copy of reissued letters patent of the U. S., granted to John B. Slawson, dated January 24th, 1871, No. 4240, which is marked "Complainant's Exhibit Slawson Patent."

2d. Certified copy of letters patent of the United States, granted to Elijah C. Middleton, dated Dec. 12, 1871, No. 121920, which is marked "Complainant's Exhibit Middleton Patent."

3d. Certified copy of the extension of said patent to Slawson, marked "Complainant's Exhibit Extension Certificate."

4th. Certified copy of a disclaimer filed by John B. Slawson, Sept. 6, 1877, marked "Complainant's Exhibit Disclaimer."

5th. Certified copy of assignment from Elijah C. Middleton to John B. Slawson, dated Sept, 17, 1873, marked "Complainant's Exhibit Middleton Assignment."

25 DANIEL R. HART, called for complainant and sworn, testified and says:

Q. 1. What is your residence and occupation?

A. Residence 128 East Twenty-seventh street, New York City; occupation at present, engaged with the John Stephenson Company, Limited.

Q. 2. Please state what, if any, experience you have had in the building of street cars and omnibuses?

A. Over thirty-two years in Troy, New York, Newark, N. J., St. Louis, Mo., and with Jones & Co., of West Troy, N. Y., town of Watervliet.

Q. 3. State whether your said experience has been a practical one or not.

A. It has; wholly so.

Q. 4. Have you read and do you understand a certified copy of reissue letters patent of the United States granted to John B. Slawson, dated January 24, 1871, No. 4240, for a fare-box, which copy is marked "Complainant's Exhibit Slawson Patent, B. L. B."?

A. I have and I do.

Q. 5. Please state what is the invention therein described and referred to in the second claim thereof.

A. The specifications describe a fare-box used in passenger cars having two compartments, one for the arrest and temporary detention of the fare, and the other for deposit. The former or first compartment has openings covered by transparent mediums; one of the openings covered by glass for the use of the driver or conductor to examine the fare, and the other for the passengers, should occasion require them to examine their fare when deposited.

Q. 6. Please look at complainant's Exhibit Hart No. 1, now shown you, and state what it represents.

A. It represents a fare-box, having two compartments, such as is used on the cars of the defendant, substantially what I have seen.

Q. 7. Have you read and do you understand a certified copy of letters patent of the United States granted to Elijah C. Middleton, dated
26 Dec. 12, 1871, No. 121920, for fare-boxes, marked "Complainant's Exhibit Middleton Patent"?

A. I have and I do.

Q. 8. Please state what is the invention therein described and referred to in the claim thereof.

A. The specifications describe a means of lighting the interior of the fare-box from the head-lamp at night by means of a reflector, which throws the reflection through an opening in the head-lamp box, and an opening in the top of the fare-box, covered by a transparent medium, into the compartment for the temporary arrest of the fare for examination and inspection.

Q. 9. Please look at complainant's Exhibit Hart No. 2, B. L. B., now shown you, and state what it represents.

A. It represents the head-lamp box of the cars, used on cars of the defendant, belonging to the Grand Street, Prospect Park and Flatbush Railway.

Q. 10. How was the device represented by complainant's Exhibit No. 2 applied to the fare-box represented by complainant's Exhibit Hart No. 1 on the cars of the defendant, if at all?

A. Substantially as represented in the exhibits.

Q. 11. How does the fare-box which you saw in use on the defendant's cars, as you have stated, compare with fare-box described in complainant's Exhibit Slawson Patent, and specified in the second claim thereof?

A. Substantially the same.

Q. 12. How do the fare-boxes, and means of lighting the same at night, which you saw in use on the defendant's cars, as you have stated, correspond with the fare-box and means of lighting the same at night described in complainant's Exhibit Middleton Patent, and specified in the claim thereof?

A. Both devices have the same means and have the same elements for lighting at night through the opening in the head-lamp box, and the opening in the fare-box, covered by a transparent medium, substantially the same.

Q. 13. When and where did you see the devices represented by
27 complainant's Exhibit Hart No. 1 and complainant's Exhibit Hart No. 2, in use on the cars of the defendant, as you have stated?

A. In the winter of 1877, on the cars at the southern terminus of the Grand Street and Prospect Park and Flatbush R. R. Co., and at the northern terminus at the same time, near Grand and Water streets, in the city of Brooklyn, N. Y.

Q. 14. During the day or night?

A. Night.

Q. 15. Had you or not before that time seen the cars in the day-time?

A. Saw the cars in the summer of 1876, from six to eight cars of that character, at the stables or car sheds of the defendant.

Q. 16. What if anything was the difference between the fare-box and the means of lighting the same on the defendant's cars that you saw in the day-time, and the fare-box and means of lighting the same that you saw in the defendant's cars in the night-time?

A. In the night time the fare-box was lighted from the head-lamp box in the interior.

Q. 17. What does the frame work wherein complainant's Exhibit Hart No. 1, and complainant's Exhibit Hart No. 2, sit, represent?

A. Represents a section of the front end of a street car on that corner of the car where the head-lamp box and fare-box are situated.

Q. 18. Is it or not a section of the front end of the defendant's cars that you have referred to?

A. It is. Substantially the same.

Q. 19. Do or not the position and location of complainant's Exhibit Hart No. 1 and Hart No. 2, respectively, in said frame represent the position and location of the fare-box and means of lighting the same, which you saw on defendant's cars as you have stated?

A. They do.

Q. 20. Please state on how many cars of the defendant company you saw the fare-box and means of lighting the same as represented by Exhibit Hart No. 1 and Hart No. 2, in use as you have stated.

A. Positively six, and may have been eight in number.

28 Cross-examined by Mr. CROOKE:

Q. 21. You said you was connected with John Stephenson Company, Limited.

A. That is the name of the company.

Q. 22. Is Mr. Slawson, the complainant, one of the partners?

A. He is.

Q. 23. Are you one?

A. I am not.

Q. 24. What is your connection or employment with the company?

A. Since the organization of the John Stephenson Company, Limited, and four years prior to that time, at which prior time I was employed by John Stephenson, and a portion of that said time also for John B. Slawson, to look after the interests of all these parties, the manufacturing interests and patent rights which John Stephenson and J. B. Slawson, and the company, limited, own up to the present time.

Q. 25. You was substantially a detective in their employment?

(Objected to by counsel for complainant. No foundation laid for the question.)

A. Partially so.

Q. 26. Are you acquainted with mechanical and physical forces?

A. My knowledge is limited.

Q. 27. How is your information on the subject of lights and lighting—much or little?

A. Sufficient for all practical purposes.

Q. 28. Do you know that a lighted lamp at night will diffuse and give light through glass? Answer yes or no.

(Last clause of question objected to.)

A. Yes.

29 Q. 29. Do you know that force and principle has been in use more than twenty years; a communicating light from a lamp through glass?

A. I do.

Q. 30. Is there anything new, then, in communicating light from that head-lamp through a glass surrounding it? I mean simply in the principle of light shining through glass around it? Answer yes or no.

A. Nothing.

Q. 31. How long have you known the use of such a reflector as is used in Exhibit Hart No. 2?

A. Probably twenty-five or thirty years—probably twenty years.

Q. 32. There is nothing new in a reflector for light, is there?

A. No.

Q. 33. There is nothing new in the use of a reflector in car-lamp boxes, is there?

A. There is not.

(Complainant's counsel objects to this line of questions as not alluded to in the direct.)

Q. 33*a*. If there was no reflector in the lamp box would not the light of the lamp at night shine through glass around it?

A. Yes.

Q. 34. Do you know that Mr. Stephenson had a patent to light a fare-

box from the car-lamp, the head-lamp, or centre-lamp before this patent of Middleton's claimed by Mr. Slawson?

(Objected to as irrelevant and calling for secondary evidence. Question withdrawn.)

Q. 35. Do you know that Mr. Stephenson did light a car-box from the head-lamp before this patent of Middleton's was used?

(Objected to as irrelevant and incompetent.)

A. I positively do not know it.

30 Redirect:

Q. 35*a*. In question 31 you were asked how long you have known of the use of a reflector such "as is used in Exhibit Hart No. 2," and you answered "probably twenty years." Did you or not, by that answer, mean the ordinary reflector used in car-lamp boxes.

A. I did.

DANIEL R. HART.

Complainant's counsel offers in evidence the exhibits referred to by the witness, and which are marked, respectively, "Complainant's Exhibit Hart No. 1, B. L. B," and "Complainant's Exhibit Hart No. 2, B. L. B."

Testimony taken and reduced to writing, and by the witness subscribed and sworn to before me this 25th day of November, 1878.

B. LINCOLN BENEDICT,
Special Examiner.

DECEMBER 4TH, 1878.

Hearing resumed; same appearance.

DANIEL R. HART, recalled as witness for complainant, deposes and says:

Q. 1. Have you been heretofore examined as a witness in this action?

A. I have.

Q. 2. Please look at Exhibit Hart No. 3, now shown to you, and state what it represents?

A. It represents a fare-box, which is in use on the cars of the defendant.

Q. 3. Please look at complainant's Exhibit Hart No. 4, and state what it represents?

31 A. It represents a head-lamp box, and head-lamp, such as is in use on some cars of the defendant for the purpose of lighting up the interior of the fare-box at night.

Q. 4. When and where did you see on the cars of the defendant the fare-box represented by Complainant's Exhibit Hart No. 3, and the means of lighting the same represented by Complainant's Exhibit Hart No. 4?

A. In the winter and summer of 1877, and the spring and early summer of 1878, on the road at different points of the Grand street, Prospect Park and Flatbush Railway Company, the defendant.

Q. 5. During the day or night?

A. At both seasons of the day.

Q. 6. What does the frame work wherein Complainant's Exhibit Hart No. 3, and Complainant's Exhibit Hart No. 4, are placed represent?

A. It represents a section of the front end of a street car, the opposite corner to where the door slides backwards and forwards.

Q. 7. Note whether or not it represents such a section of the defendant's cars on which you saw the devices represented by Exhibit Hart No. 3, and Exhibit Hart No. 4?

A. Substantially the same.

Q. 8. On how many cars of the defendant's did you see the devices represented by Exhibit Hart No. 3, or Exhibit Hart No. 4 in use?

A. Not less than fifteen, to the best of my recollection.

Q. 8*a*. Do or not the position or location of Exhibit Hart No. 3, and Exhibit Hart No. 4, respectively, in said frame, represent the position and location of a fare-box and means of lighting the same, which you saw on defendant's cars, as you have stated in this examination?

A. They do, substantially.

Q. 9. Is or not the fare-box represented by Exhibit Hart No. 3, any different from the fare-box represented by Exhibit Hart No. 1, B. L. B.?

A. I am not aware of any difference whatever, as embodying the elements of the invention.

32 Q. 10. Is there or not any difference in the construction of those two fare-boxes?

A. I am unable to detect any whatever.

Q. 11. Please look at Complainant's Exhibit Slawson Patent, and state what is the invention specified in the second claim thereof?

A. The invention specifies a fare-box having two compartments, one of which is for the temporary arrest for inspection of the fare before it is deposited in the other. The former has openings front and back, covered by transparent mediums, to enable the driver to see through the one and the passenger the other.

Q. 12. You say in the last answer that the "invention specifies." Do you or not mean by that that the second claim specifies as the invention a fare-box such as you have described in your last answer?

A. I do.

Q. 13. Please look at Complainant's Exhibit Middleton Patent, and state what is the invention specified in the claim thereof.

A. The invention specified in the claim is the lighting at night of the interior of a fare-box, by the head-lamp of the car, which light is thrown against a reflector situated over the fare-box, and which reflector throws the light it receives from the lamp into the fare-box through an opening in the fare-box, which opening in covered by a transparent medium, substantially as shown in the specification.

Q. 14. How do the fare-boxes and means of lighting the same at night, which you saw in use on the defendant's cars, as you have stated on this examination, correspond with the fare-box and means of lighting the same at night described in Complainant's Exhibit Middleton Patent, and specified in the claims thereof?

A. Substantially the same means and the same elements to produce the same effect and employed in both cases; a change of form only in the head-lamp box of the defendant's cars is the only difference.

Q. 15. State whether or not in your opinion the said change of form is a material one?

33 A. It is not.

Q. 16. What, if anything, was the difference between the fare-box and the means of lighting the same on the defendant's cars that you saw in the day-time, and the fare-box and means of lighting the same that you saw on the defendant's cars in the night-time, as you have stated in this examination?

A. In the night-time the interior of the fare-box was lighted from the head-lamp of the car by means of the elements specified in the claim.

Q. 17. State whether or not you have been called on as an expert in the manufacture of horse cars in relation to the value of such vehicles?

A. I have; John Stephenson, street car manufacturer, was called upon by the ex-officers of the Montreal City Railway Company in the fall of 1877 to send them an expert or a person to estimate the value of their rolling-stock, which consisted of street cars, omnibusses and sleighs; he wrote them that he would send his expert, and they telegraphed him to send him; I was there fourteen days, together with the superintendent of the Syracuse Railway and the superintendent of the Hamilton Street Railway Company; as a consideration for my services, and also the services of the superintendents, our traveling and hotel expenses were paid by the company, and $25 a day each for the time we were engaged.

Q. 18. In answer to question 16 you state that the fare-box was lighted at night on the defendant's cars—state whether or not they were so lighted by the reflector over the fare-box by light reflected to the reflector from the lamp, and by the reflector transmitted into the fare-box through the transparent opening in the top of the fare-box?

(Objected to by respondent's counsel as leading.)

A. They were so lighted.

Cross-examined by counsel for respondent:

Q. 19. When you spoke of going to Montreal, what other cases have you been called in as an expert?

34 A. My first case in being called—six or eight times.

Q. 20. You use the words "substantially" and "substantial elements;" what do you mean by that?

A. What I mean by "substantially" is that the same elements or combination of elements was employed to produce a certain result in one case as in another, although they might not be the same identically in form; that they were the same to produce a certain effect.

Q. 21. How did you examine the cars of the defendant—what led you to it?

A. I was informed by my employer, John Stephenson, in July of 1876, to examine the cars and ascertain what, if any, infringements of his patent were in use on the cars of the Grand Street, Prospect Park and Flatbush Railroad; I examined them at that time, and frequently since that time, at the request of John B. Slawson, the latter stating to me that he believed the devices in use on that road were infringing two of his patents.

Q. 22. Did he employ you?

A. He did not; he asked me if I would do so, and I said I would.

Q. 23. Do you always do as you are requested by people who meet you and tell you to do a thing?

A. Not always; sometimes.

Q. 24. How came you to do it in this instance?

A. I said I would do it, and I cheerfully performed my task.

Q. 25. Have you any means of telling how Mr. Slawson was aware that you were looking up the matter of infringement upon patents of the complainant's on the defendant's cases?

A. Yes, sir; I communicated with Mr. Slawson from time to time the result of my scrutinizing said cases.

Q. 26. Your business consists mostly in the examining of cars for infringements of patents in everything pertaining to a horse car or omnibus?

A. In the former, not the latter; that has been my employment for six years past.

DANIEL R. HART.

35 Taken and reduced to writing and by the witness subscribed before me this 5th day of December, 1878.

B. LINCOLN BENEDICT,
Special Examiner, &c.

Examination adjourned to Monday, December 16th, 1878, at 11 a. m., to take testimony on the part of respondent.

MARCH 21ST, 1879.

Examination resumed:

Appear, George Gifford, by Mr. O'Reilly, for complainant; P. S. Crooke, for defendant.

Testimony for complainant resumed:

PATRICK MCGEE, called as a witness, deposes and says:

Q. 1. What is your name, age, residence and occupation?

A. Patrick McGee; aged sixty next November; 655 Greenwich street, New York; business, coal.

Q. 2. How long have you been in the coal business?

A. In the retail business since 1855.

Q. 3. In this city?

A. In this city.

Q. 4. Did you ever know a man named George Lawrence?

A. I did, sir.

Q. 5. Of what color was he?

A. He was a colored man; very light colored.

Q. 6. Have you ever been connected with California steamships running to this country?

A. I have, sir, indirectly.

Q. 7. In what way?

A. Supplying them coal.

36 Q. 8. From what time to what time did you supply that line of steamships with coal?

A. From 1850 to 1857.

Q. 9. Where was said Lawrence at work from 1850 to 1857?

A. On Warren street dock, New York city.

Q. 10. East or North River?

A. North River.

Q. 11. What was he doing there?

A. He had charge of the bedding and cleaning of the ships when they came in.

Q. 12. How well were you acquainted with said Lawrence during those years?

A. I was intimately acquainted with him.

Q. 13. Did he or not ever tell you what he had been doing before going to that line?

A. I can't recollect very well. I heard him tell that he was in Marshall's employ.

Q. 14. Who was Marshall?

A. The proprietor or president of the Black Ball line of sailing vessels.

Q. 15. Did you or not ever sell said Lawrence coal for his own use?

A. For his house? Yes.

Q. 16. In what years?

A. 1855, '6, '7. Several years.

Q. 17. Where did Lawrence give you the order for that coal?

A. On the Warren street dock.

Q. 18. Is Lawrence living or dead?

A. He is dead, I believe, sir.

Cross-examination by Mr. CROOKE:

X Q. 19. Where do you live now?

A. 655 Greenwich street. I do business at Warren and Barrow streets.

X Q. 20. When did you first get acquainted with Lawrence?

A. I think it was 1850.

37 X Q. 21. Are you sure?

A. I couldn't swear positively that it was 1850. I think it was; it was within a year of that. I came to Warren street on the 27th of April, 1850.

X Q. 22. Are you sure it was within a year of the 27th April, 1850, that Lawrence came there?

A. I think it was. I think he was there before I came there.

X Q. 23. I will ask you again; are you sure?

A. I wouldn't swear positive.

X Q. 24. In what year will you swear positively he was there?

A. In 1851, from 1851 to 1858, inclusive.

X Q. 25. How old a man was Lawrence, about?

A. He might be from 55 to 60; pretty well advanced in years.

X Q. 26. What was his business when you first knew him?

A. Attending to the bedding. There was a large amount on the dock. Seeing to the putting aboard the ship and taking them off.

X Q. 27. Had you ever known him before he came there?

A. No, sir.

X Q. 28. Did you know what his employment had been before he came there?

A. No, sir.

X Q. 29. How came Lawrence to tell you he had been on the Black Ball line?

A. In conversation.

X Q. 30. In what duty had he been there?

A. I couldn't tell you. I disremember.

PATRICK McGEE.

Taken and reduced to writing, and by the witness subscribed and sworn to before me, this 21st day of March, 1879.

B. LINCOLN BENEDICT,
Special Examiner, &c.

38 FRANCIS B. HALL, called as a witness for complainant, and sworn, deposes and says:

Q. 1. What is your age, residence, and occupation?

A. I live in Hoboken now, N. J.; shall be seventy-four 18th of June next; am not in any business but attending to my houses and collecting rents when I can get them.

Q. 2. Were you or not in any employment of the Pacific Mail Steamship Company of this city?

A. Yes, sir.

Q. 3. From what year to what year?

A. At Warren street, from 1854 to 1859; I think it was 1859.

Q. 4. Where was the dock of the company?

A. At Warren street, North River.

Q. 5. What was your position with that company?

A. Selling tickets; California tickets; clerk in the office.

Q. 6. Where was the office located?

A. 177 West street, corner of Warren.

Q. 7. Was that company connected with any other company?

A. I don't know any other but the company called the California line; called the United States Mail line, I think.

Q. 8. Please state what was the business of those companies—their route?

A. Running the California line; the passage and freight line to California.

Q. 9. From what point to what point did the American line run, the United States line?

A. The United States line ran to Aspinwall or Chagres, and from there to California.

Q. 10. And from what point to what point did the Pacific Mail run?

A. From Panama to San Francisco.

Q. 11. While you were employed by the Pacific Mail Company in this city, as you have stated, did you know a George Lawrence?

A. Yes, sir; well acquainted with him.

39 Q. 12. Of what color was he?

A. Light colored.

Q. 13. African descent?

A. Yes, sir.

Q. 14. What was his position?

A. Superintending the cleaning of ships and bedding, and getting them ashore and putting them aboard.

Q. 15. Where was he located?

A. On the dock foot of Warren street, North River.

Q. 16. With what line of steamers?

A. The steamers I believe, belonged to M. O. Roberts; the line connected with the Pacific Mail.

Q. 17. During what years was Lawrence employed on that dock, so far as you know?

A. About 1854 and upwards; several years. I knew him before that, in 1853.

Q. 18. Was he there when you commenced?

A. Yes; I saw him there on the dock and on the ships.

Q. 19. Were you ever in the cabins of those steamers at that dock?

A. Yes, sir; aboard the ships every day almost; twice a day sometimes.

Q. 20. What brought you there?

A. To show passengers their rooms and berths; to show passengers where they were to go.

Q. 21. Did Lawrence's duties require him to be all the time at the dock?

A. Yes; cleaning and getting the ship ready took all the time till the ship left. He had to be there till the ship went.

Q. 22. Was there any money-box in the cabin of those ships?

A. I never saw any.

Q. 23. If there had been while you were ticket agent, as you have stated, would you not have been likely to have seen it?

A. I should certainly have seen it if it was there, for I was all over the ship.

Q. 24. You say you think you were ticket agent up to 1859? Please state about how many years you were ticket agent from 1854.

40 A. I had it in mind six or seven years; I don't exactly remember the number of years.

Q. 25. Have you or not any doubt that it was three years?

A. It was three years and upwards.

Q. 26. Can you tell in what time in 1854 you became ticket agent?

A. It was in the latter part of the year.

Cross-examination by Mr. CROOKE:

X Q. 27. Where do you live now?

A. In Hoboken.

X Q. 28. You said you knew Lawrence before 1854?

A. I was acquainted with him.

X Q. 29. Where was he then?

A. On the Warren street dock.

X Q. 30. Where were you then?

A. I was in the office—in the employ, but not in that office; before 1853 I was in California; was there in 1849; came back three times; stayed about a year at a time.

X Q. 31. Before 1854, what is the first year you recollect seeing Lawrence?

A. In the spring of 1853, I think it was; somewhere about April, 1853 I recollect seeing him.

X Q. 32. You did not know him before the early part of 1853?

A. It runs in my mind that I had seen him before.

X Q. 33. When is the first year you will swear positively you knew Lawrence?

A. In 1854.

X Q. 34. Before 1854, what will you state positively about any knowledge of Lawrence?

A. I can't state the time before that that I was acquainted with him; I knew him by sight before.

X Q. 35. What is the first year you will positively state you knew Lawrence by sight?

A. I don't know as I could say the first year.

X Q. 36. Could you swear positively that you did know Lawrence by sight at all before 1854?

41 A. I can swear I knew him by sight.

X Q. 37. How far back of 1854 will you swear positively that you did know Lawrence by sight?

A. I can't tell any further back than the spring of 1853. That I can swear to positively.

F. B. HALL.

Taken and reduced to writing, and by the witness subscribed and sworn to before me, this 21st day of March, 1879.

B. LINCOLN BENEDICT,
Special Examiner, &c.

CHARLES MERRILL, called as a witness for complainant and duly sworn, deposes and says:

Q. 1. What is your name, age, residence, and occupation?

A. My age is forty-four; occupation, clerk; residence, 32 South street, Jersey City.

Q. 2. Were you ever connected with a line of California steamships in this city?

A. Yes, sir.

Q. 3. From what year to what year?

A. From 1852 to 1859; one company.

Q. 4. Where was the dock of that line?

A. Foot of Warren street, North River.

Q. 5. What was your position?

A. Clerk in the store department of the U. S. Mail Steamship Company—that was the name of the line.

Q. 6. Did you ever know a man named George Lawrence?

A. Yes, sir.

Q. 7. Of what color?

A. Light complexioned—mulatto.

Q. 8. African descent?

A. I should say so.

42 Q. 9. Where did you know him?

A. I knew him on the pier.

Q. 10. What pier?

A. Foot of Warren street—the one I have mentioned.

Q. 11. What was he doing there?

A. He had charge of the bedding and cleaning the ships when they came into port.

Q. 12. What ships?

A. California steamers.

Q. 13. What years was he there?

A. From 1852 to 1859; that is the time I first knew him.

Q. 14. How often did you meet him during that time?

A. Every day, generally.

Q. 15. Did not his duties require him to be there daily?

A. Yes, sir.

Q. 16. At that time what line, if any, did you understand Lawrence had been connected with?

A. It was generally reputed that he was on sailing vessels before he came there.

Q. 17. Do you recollect what line?

A. Black Ball Line, foot of Beekman street.

Q. 18. How often were you in the cabins of those California steamers during that time?

A. Generally every day when the steamers were in.

Q. 19. Was there or not a money-box in the cabin?

A. No, sir. I never saw any.

Q. 20. If there had been would you or not have been likely to have seen it?

A. Yes, sir.

Q. 21. How well were you acquainted with Lawrence from 1852 to 1859?

A. Used to speak to him, and had business with him for the company.

Cross-examination by Mr. CROOKE:

X Q. 22. Where do you live now?

A. In Jersey City.

43 X Q. 23. Where do you do business?

A. Corner Warren and West streets, North River, New York.

CHAS. MERRILL.

Taken and reduced to writing, and by the witness subscribed and sworn to before me this 21st day of March, 1879.

B. LINCOLN BENEDICT,
Special Examiner, &c.

BENJAMIN FISHER, called as a witness for the complainant and duly sworn, deposes and says:

Q. 1. What is your age, residence, and occupation?

A. Age, 67; residence, 112 High street; occupation, steward.

Q. 2. Are you a colored man?

A. Yes, sir.

Q. 3. Did you ever know a Mr. George Lawrence?

A. Yes, sir.

Q. 4. Of what color was he?

A. A little lighter than I.

Q. 5. A colored man?

A. Yes, sir.

Q. 6. Is he living or dead?

A. He is dead about nine years.

Q. 7. Before his death how well did you know him, and how long?

A. I knew him about fifty years; was intimately acquainted with him visited his house from 1832, on.

Q. 8. Do you know whether or not Lawrence was ever employed on the Black Ball line of packets?

A. Yes; I know he was, for years.

Q. 9. Where was the dock of that line?

A. Foot of Beekman street, East River, New York.

Q. 10. What was his position in that line?

A. Steward.

44 Q. 11. What kind of a steward?

A. The steward of the ship.

Q. 12. A sailing steward?

A. Yes; sailed in the ship.

Q. 13. Please state the years in which he was employed on that line.

A. I cannot state that. I knew him first there before 1832.

Q. 14. About when did he leave?

A. I should think he left about 1834 or 1835.

Q. 15. Do you know who succeeded him when he left on that line?

A. No, sir; the first ship I knew him on was in 1832; he left that ship and I succeeded him.

Q. 16. State whether or not, after he left that ship on which you succeeded him, he ever returned to that line.

A. He didn't leave the line; was in the same line on another ship.

Q. 17. Do you recollect about what year he left that line?

A. About 1835.

Q. 18. After he left that line, state the different places he was employed.

A. The first place, he went into a club-house; after that he went on the steamer Washington—I don't know whether he only fitted her out or made one voyage in her—then he went to 217 Water street in the pickle business; then he went in the London line, Mr. Griswold's.

Q. 19. Do you know anything about his keeping an intelligence office?

A. He kept an intelligence office before he went in Mr. Griswold's line.

Q. 20. Where was the club-house?

A. Corner Broadway and Park Place.

Q. 21. Where did the steamer Washington run to?

A. Havre or Bremen—I am not sure which.

Q. 22. Where was the dock of the London line?

A. Foot of Pine street, East River, N. Y.

Q. 23. After he left the London line, where did he go?

45 A. I don't know exactly; I think he went into George Law's employ.

Q. 24. How long did you work on the Black Ball line?

A. About two years, as steward; sailing steward; same as Lawrence; I succeeded him in the ship Britannia.

Q. 25. Was there any port steward to that line?

A. No, sir.

Q. 26. Do you know of Mr. Lawrence's being connected with the line of steamers running from New York to Aspinwall and Chagres?

A. Yes, sir.

Q. 27. About when did he commence with that line?

A. In 1848.

Q. 28. How long did he continue?

A. He commenced in 1848, in Mr. Law's employ; was there in M. O. Roberts' employ, and was there in Mr. Vanderbilt's employ; right straight along.

Q. 29. You say he commenced about 1848; please state up to about what year he continued there.

A. I know he was there after the war commenced; when the ships of the commodore were dismantled, their furniture was put into Liberty street, and he had charge of it; that is the last I knew of him.

Q. 30. Where was the dock of this line of steamers?

A. Foot of Warren street.

Q. 31. Were you ever employed on that line?

A. I was employed on Commodore Vanderbilt's line.

Q. 32. About when did you commence, and about how long did you continue?

A. I can't state positively; must have commenced in 1855 or 1856; was there about four years.

Q. 33. Was Lawrence there while you were there?

A. He had nothing to do with the commodore's ships; but he was about the office.

Q. 34. Where were the commodore's ships located, their dock?

A. From the foot of Warren street they sailed to Chagres or Aspinwall.

46 Q. 35. While Lawrence was connected with this California Steamship line, how often did you see him?

A. I can't say; at least once in two months; I seldom came home without seeing him.

Q. 36. Did Lawrence ever give you a job on his line?

A. No, sir.

Q. 37. You state that Lawrence commenced in 1848 in Mr. Law's employ, and then was in Mr. Roberts' employ, and then in Mr. Vanderbilt's employ, right along; do you not mean that these persons were the successive owners of the line of steamers running from New York to Aspinwall and Chagres?

A. That is my impression.

Q. 38. And your understanding at the time?

A. Yes; I judge from the manner the ships were called, after first one and then the other.

Q. 39. Do you or not mean to be understood as saying that Lawrence was with the line of steamers at Warren street dock from about 1848 to the war?

A. Yes, sir.

Q. 40. Do you remember a trial trip, in 1848, of a steamer?

A. I remember the trial trip, and think it was in 1848; the clerk of the builder told me she was built in 1847; George Lawrence was with me on that steamer; it was the Falcon.

Q. 41. What did you do?

A. I assisted him in giving a collation.

Q. 42. What was Lawrence's position at the foot of Warren street?

A. He was called the port steward, in Mr. Law's employ.

Cross-examination by Mr. CROOKE:

X Q. 43. Of what State are you?

A. Of New York; I live at 112 High street; am steward now; been yachting last; the last steamer I was on was to Philadelphia.

X Q. 44. Do you think there was a line of steamers to California in 1848?

47 A. I cannot say whether there was or was not.

X Q. 45. Can you give the first year that you are certain there was a line to Chagres?

A. No, sir.

X Q. 46. What year did you succeed Lawrence on the Britannia?

A. In 1832.

X Q. 47. Lawrence went from there to South America for two years?

A. Yes, sir; in the same line, with the same captain, Marshall.

X Q. 48. From South America where did he go to?

A. I think he went to the club-house about a couple of years.

X Q. 49. Where do you think he went to from the club-house?

A. I can hardly tell; he kept an intelligence office for a few months.

X Q. 50. Can you tell what vessels he was on from 1836 to 1848?

A. Yes, sir; the ship Philadelphia, Mr. Griswold's line—London line; can't tell how long; he went from there to the Victoria, same line; then to 217 Water street, in business—pickle business—might have been there a couple of years; I think from there he went to the Washington; he was idle at one time a good while, I know; can't tell where he went to.

X Q. 51. Didn't Lawrence fit out vessels when he was in the pickle business for anybody?

A. If he did I didn't know of it.

X Q. 52. Do you remember the ship Rainbow?

A. I have heard of her; don't know that Lawrence had anything to do in fitting her out.

X Q. 53. Do you remember the Sea-witch?

A. Yes; but I don't know that Lawrence had anything to do with her; he might have, for her captain was an old friend of his.

X Q. 54. Don't you know that after he left going to sea on the Black Ball line he was frequently on board their ships?

48 A. I don't know that he was.

BENJAMIN FISHER.

Taken and reduced to writing and by the witness subscribed and sworn to before me, this 21st day of March, 1879.

B. LINCOLN BENEDICT,
Special Examiner.

CHARLES TILGHMAN, called as a witness for the complainant, and duly sworn, deposes and says:

Q. 1. What is your name, age, residence, and occupation?

A. Occupation, steward; residence, 705 Herkimer street, Brooklyn; age, 68 years.

Q. 2. Where are you steward?

A. On board the James Foster, jr.

Q. 3. What line is she in?

A. Black Ball line—C. H. Marshall & Co.

Q. 4. How long have you been on the Black Ball line?

A. Been there off and on for thirty-odd years, not constant.

Q. 5. Did you ever know a George Lawrence?

Q. Yes; was intimately acquainted with him.

Q. 6. Was he a colored man?

A. Yes, sir.

Q. 7. Is he living or dead?
A. He is dead, sir.
Q. 8. Are you a colored man?
A. I am, sir.
Q. 9. Where has the dock of the Black Ball line always been?
A. Ever since I can recollect, and that is over 40 years, at the foot of Beekman street.
Q. 10. Did that line ever have a port steward?
49 A. No, sir; never.
Q. 11. Was Lawrence ever on that line?
A. Yes, sir.
Q. 12. What did he do?
A. Always went steward.
Q. 13. Sailed with the ship?
A. Yes, sir.
Q. 14. Did you ever visit Lawrence on board the ship at the foot of Beekman street?
A. Yes, sir.
Q. 15. Did you see him have a box there; a money-box?
A. I did.
Q. 16. Where was the box?
A. On the cabin table.
Q. 17. What was the box for?
A. For the donations of different institutions.
Q. 18. How often did you see that box there?
A. I have seen it a dozen times.
Q. 19. Did you ever look into it?
A. From the outside, yes; from the face of it, could see through the glass.
Q. 20. What did you see in it?
A. I have seen money into it.
Q. 21. In what part of the box was the money lying?
A. In the drawer.
Q. 22. What was that box made of?
A. Of mahogany, I think.
Q. 23. Anything else?
A. No, sir.
Q. 24. Was there any glass to it?
A. A glass front.
Q. 25. Would you recognize a model of that box if it was shown to you?
A. Yes, sir.
Q. 26. You say the box was made of mahogany, you think; do you or not mean that it was made of some wood?
A. It might have been mahogany or it might have been stained; it was made of wood anyhow.
50 Q. 27. Look at the box now shown you and state how it corresponds in construction with the box you saw with Lawrence.
A. That is the way the other was made, as near as could be.
(Complainant's counsel offers in evidence the box referred to in the last

question, and the same is marked "Complainant's Exhibit Tilghman, B. L. B.")

Further examination suspended until March 26th.

MARCH 26TH, 1879.

Examination resumed; same appearances.

Direct examination of Charles Tilghman resumed:

Q. 28. You say that Lawrence was employed on the Black Ball line—do you remember the breaking out of the California gold fever?

A. Yes, sir.

Q. 29. Was not Lawrence on that line before the breaking out of that fever?

A. Yes.

Q. 30. Did he or not leave that line before the breaking out of that fever?

A. Oh, yes; he left that line and went in the London line.

Q. 31. And when he left that line, as you have stated, did he or not ever return to it?

A. No, sir.

Q. 32. At the breaking out of this fever what did Lawrence engage in?

A. As port steward for Mr. Law's steamers.

Q. 33. Where was the dock of those steamers?

A. Warren street, North River.

51 Q. 34. Where did those steamers run to?

A. Aspinwall.

Q. 35. Did or not Lawrence ever give you a job on those steamers?

A. He did; on the Empire City.

Q. 36. What was the job, and how long did it take you?

A. It was ten days' cooking.

Q. 37. How long, about, did Lawrence remain with those California steamers after he joined them?

A. I should say eight or nine years—he was there till he was incapable of attending to them any more.

Q. 38. Did Lawrence have any money-box on these California steamers?

A. No, sir.

Q. 39. Were you or not ever in the cabin of those steamers?

A. Of the Empire City, I was.

Q. 40. Did you see any money-box there?

A. No, sir.

Q. 41. If there had been a money-box there, would you have been likely to have seen it?

(Objected to.)

A. I would.

Cross-examination by Mr. CROOKE:

X Q. 42. What year do you think Lawrence left the employment of George Law?

A. He was there nearly up to his death.

X Q. 43. Was Lawrence in Law's employ, after he left the London line, till George Law's death?

A. He was there until his (Lawrence's) death: Law is not dead, I believe.

X Q. 44. Was it you or Lawrence that kept the pickle store?

A. It was Lawrence—before he went into Law's employ, before the gold fever.

52 X Q. 45. Was he in the pickle business before he went in the London line?

A. No, sir; before he went to Mr. Law's.

X Q. 46. Then when you said he was in George Law's employ all the time after he left the London line you were mistaken?

A. No, sir; after he left the London line he went into Law's employ, and was there till he died.

X. Q. 47. How long had he left the London line before he went into Law's employ?

A. It might have been a year or two, must have been about that time; he was in Scott's pickle store some time before the gold fever broke out, the California fever.

X Q. 48. Have you any recollection what year the California fever did brake out?

A. In 1849.

X Q. 49. Was it in 1849 he went into George Law's employ?

A. I think it was.

X Q. 50. Might it not have been a year or two after?

A. It might not; I think it was 1849.

X Q. 51. Did you know Capt. Waterman?

A. Yes, sir; ever since he was second officer.

X Q. 52. Don't you know that Lawrence fitted out the Rainbow for him?

A. No, sir; she was one of Griswold's California ships; it was about 1850 that he fitted out the Sea-witch.

X Q. 53. Then you think he had not gone into Law's employ when he fitted out the Sea-witch.

A. No, sir.

X Q. 54. Then he had left Mr. Griswold's?

A. The London ships—yes.

X Q. 55. Do you recollect the Challenge?

A. Yes, sir; don't recollect his fitting her out.

X Q. 56. Do you recollect the Southampton, or Victoria?

A. Yes, sir; could not give you the year they were fitted out; I think the Victoria was fitted out before the Sea-witch; I have been on her three or four voyages.

53 X Q. 57. At the time Lawrence was fitting out these ships he had left the London line?

A. Yes, sir.

X Q. 58. And had not gone into Law's employ?

A. No, sir. I don't recollect the fitting out of any but the Sea-witch.

X Q. 59. He was in the habit of buying things for different ships?

A. Not often; sometimes.

X Q. 60. Didn't Lawrence often get situations for stewards on board ships?

A. For steamers he did; not before he went into George Law's employ, to my knowledge.

X Q. 61. Was he in the habit of buying meat and things in Fulton Market?

A. I don't know anything about that; never went to market with him.

X Q. 62. Do you know a butcher named Cook?

A. No, sir.

X Q. 63. Know the Dorlons?

A. Yes, sir; have heard of them.

X Q. 64. The Black Ball line lay right down from Fulton Market?

A. Yes, sir; foot of Beekman street.

X Q. 65. Do you know of his going there to that market?

A. Of course he used to visit there.

X Q. 66. Do you know where Mr. Woods' store was?

A. Yes, sir; in Water street. It wasn't over 200 yards from Beekman street.

X Q. 67. What did you know of Lawrence's poor-box?

A. I have seen it on the table on the Black Ball ships.

X Q. 68. Ever see it on other ships?

A. No, sir.

X Q. 69. It was not for Lawrence's private benefit?

A. No, sir.

X Q. 70. What is the latest year you saw it?

A. Somewheres about 1836.

X Q. 71. Did you never see it on the London line?

A. No, sir.

54 X Q. 72. How did you come to see it on the Black Ball line?

A. Saw it on the cabin table.

X Q. 73. Were you ever in Mr. Woods' store?

A. Don't know but what I was; never met Lawrence there.

X Q. 74. Do you know whether Lawrence had a desk there?

A. No, sir; never heard of it.

X Q. 75. You think Lawrence went with Mr. Law when the ships first went to Aspinwall?

A. Yes; Aspinwall or Chagres. It was all one thing.

X Q. 76. What makes you think they were all one thing?

(Complainant's counsel objects to the word "think.")

X Q. 77. What makes you say Chagres and Aspinwall are all one thing?

A. I never was there. When they first started the boats they called it Chagres, and afterward I heard nothing of Chagres, and they called it Aspinwall. I don't know whether they are one port or not.

X Q. 78. What do you consider a port steward?

A. A man that takes charge of the cabin and has access to it while it is in port.

X Q. 79. When she isn't in port what does he do?

A. Goes on board another boat; if there isn't any, goes to the office or anywhere.

X Q. 80. When those boats first began running to the Isthmus, how many were there?

A. I can't tell you.

X Q. 81. Don't you know they began with one?

A. I can't recollect; there was times there were none in port.

X Q. 82. Don't you know that Lawrence was an active man, and did business for anybody that paid him?

A. Yes, sir; he was a favorite with ship-owners; a smart man, who understood the business.

55 X Q. 83. From 1850 to 1860, in what employment were you?

A. In the London and Liverpool lines.

X Q. 84. There was a good deal of time you were away?

A. Yes; I couldn't then tell what Lawrence was doing; I was never away over four months; sometimes only three.

X Q. 85. Was Lawrence ever in the employ of Commodore Vanderbilt?

A. I think not; I think he was in Law's and Roberts' employ.

X Q. 86. Don't you know that Vanderbilt ran that line before 1860?

A. Didn't Mr. Law's line run at the same time? I don't know.

X Q. 87. And you don't know that he was in Vanderbilt's employ?

A. I don't.

X Q. 88. If he was, you would have known it?

A. Yes; I would have known at the time.

X Q. 89. And if you don't know now, it is because you have forgotten?

A. Yes.

Redirect examination:

R. D. Q. 90. You recollect whether, on the Warren street dock of the California steamers there was a large quantity of bedding on hand which required Mr. Lawrence's attention, whether there was a ship in or not?

A. Yes; that I know.

R. D. Q. 91. Do you recollect whether Mr. Lawrence's duties on that California line required his constant attention?

A. Yes.

Recross-examination:

R. X Q. 92. Where was that bedding on the dock?

A. It must have been under lock; they have regular store places on the docks.

56 R. X Q. 93. You being asked the question, whether vessels being out of port it required Mr. Lawrence's attention to the bedding; what attention did it require?

A. To overhaul it; see if it was ready to go on the next voyage; if it wanted repairing, to get it repaired.

R. X Q. 94. How many hours a day would it have taken of Lawrence's attention?

A. He might spend four hours over it, or six, just as he liked.

R. X Q. 95. He might spend less than four, if he liked, too, might not he?

A. Yes, sir.

R. X Q. 96. When ships were in port, some of his duties were away from the wharf?

A. Yes, sir; he might have to go and see about something for the ship, and to order something for the ship.

R. X Q. 97. How many hours would it take him for the bedding when the ship was in port?

A. It might take him three or four hours; according to what wanted to be done to it.

R. X Q. 98. According to what naturally wanted to be done to it, or to take it in and out of its place, about how long would it take a smart man like yourself to get through with it?

A. It might take from four to six hours.

R. X Q. 99. Then, when a ship was in port or out of port, if Lawrence was smart, he would have time for other matters, wouldn't he?

A. Yes, sir; certainly.

Redirect examination:

R. D. Q. 100. While Lawrence was connected with that California line, whose business was it to receive at the dock any new bedding, and examine it, and receipt for the same?

A. Geo. Lawrence's.

R. D. Q. 101. Whose business was it, at said time, to receive repaired bedding, examine it, and receipt for it?

A. The steward—Lawrence's.

57 Recross-examination:

R. X Q. 102. Did the bedding come all the time in a steady stream, or in chunks?

A. It came when it was ordered or needed; it didn't come every voyage; they always had some on hand.

CHARLES TILGHMAN.

Taken and reduced to writing, and by the witness subscribed and sworn to before me, this 26th day of March, 1879.

B. LINCOLN BENEDICT,
Special Examiner, &c.

LEANDER M. DELAMATER, called as a witness for the complainant and sworn, deposes and says:

Q. 1. What is your name, age, residence, and occupation?

A. Leander M. Delamater; age, forty-three; residence, Flushing; occupation, accountant.

Q. 2. For whom?

A. At present for the John Stephenson Company (limited).

Q. 3. Did you occupy that same position with Mr. John Stephenson?

A. I did.

Q. 4. From what year to what year?

A. From 1855 to 1867, and then was his partner up to 1876.

Q. 5. Have you inspected the books of Mr. Stephenson to ascertain his business transactions with one James Rodgers?

A. I have.

Q. 6. Please state the years that inspection covered.

(Objected to—the results are no evidence in the case.)

58 A. It covered from 1850 to 1858.

Q. 7. Look at the paper now shown you, and state what it is.

A. It is a copy of an entry on Mr. Stephenson's books of a sale made to James Rodgers on the 2d July, 1855.

(Paper shown is offered in evidence by complainant's counsel, and marked "Complainant's Exhibit Delamater No. 1."

Objected to as inadmissible.)

Q. 8. In whose handwriting was that entry made on the books?

(Objected to as inadmissible in evidence.)

A. My own.

Q. 9. Is or not that entry the first mention on those books of a sale of any lamps by Mr. Stephenson to Mr. Rodgers?

(Objected to as inadmissible in evidence.)

A. It is.

Q. 10. I notice the lamp is called in this entry "one safety lamp;" please state for what use that lamp was.

(Objected to as inadmissible in evidence.)

A. That lamp was placed in the front part of the stage to throw light both inside and outside of the vehicle, in a recess prepared for it.

Q. 11. Look at the paper now shown you and state what it is.

(Objected to as inadmissible, and that if good evidence it explains itself and does not require explanation by the witness.)

A. It is a copy of a bill rendered by James Rodgers to Mr. John
59 Stephenson, under date of July 6th, 1858, for certain registers—stage registers—delivered January 18 and February 19 of that year, and certain money-boxes and lamps delivered May 13th and 27th of the same year.

(Objected to—that the paper is a copy, as stated.)

Q. 12. In whose handwriting is that entry?

A. This is a copy of an original bill made by Mr. Rodgers.

(Paper last referred to offered in evidence, and marked "Complainant's Exhibit Delamater No. 2.")

Q. 13. On Exhibit Delamater No. 1, I notice a reference to a lighted money-box. Please state, generally, what that box was.

(Objected to—that the evidence is not admissible.)

A. A lighted money-box was the technical term we used then; it was a tin box placed beside the driver on the roof, in which he kept his change, and which had a lamp in the end, by which he could see the change at night; the cover was kept down by the strap, which passed through the money-hole in the stage, passing over one end of the box, the driver's foot controlling the end of the strap.

Q. 14. I notice, on Exhibit Delamater No. 2, a reference to money-boxes and lamps. Please state to what money-boxes and lamps it has reference.

A. Those are the cast-iron money-boxes made by Mr. Rodgers, the opening of which was inside the stage, for the passengers to deposit their fare, the driver controlling the slide and dropping the money into the box, and the lamp was a separate fixture, attached to the outer end of the box beside the driver, throwing light upon the money deposited.

60 Q. 15. Please state whether or not the original of this paper, Exhibit Delamater No. 2, is the first entry or record on Mr. Stephenson's books or papers of the sale of such money-boxes and lamps to him by Rodgers.

(Objected to as inadmissible in evidence.)

A. It is.

Q. 16. Would you recognize a sample of the box and lamp last mentioned, if shown to you?

A. Yes.

Q. 17. Please produce them.

A. I produce them.

(Money-box referred to, marked "Complainant's Exhibit Rodgers Box;" the lamp referred to, marked "Complainant's Exhibit Rodgers Lamp;" and offered in evidence for complainant.)

Q. 18. What was the box last mentioned called?

A. We came to understand them as fare-boxes after a time.

(Objected to.)

The bill shows the technical term then used—money-boxes.

LEANDER M. DELAMATER.

Taken and reduced to writing, and by the witness subscribed and sworn to, before me, this 26th March, 1879.

B. LINCOLN BENEDICT,
Special Examiner.

Complainant's counsel offers in evidence a certified copy of letters patent of the United States to James Rodgers, dated February 23d, 1858, and the same is marked "Complainant's Exhibit Rodgers Patent."

61 Also a certified copy of the file-wrapper and contents, in the matter of the application of James Rodgers for the patent to him, dated February 23d, 1858, and the same is marked "Complainant's Exhibit Rodgers Application."

JOHN STEPHENSON, called as a witness for complainant, and sworn, deposes and says:

Q. 1. What is your name, age, residence, and occupation?

A. John Stephenson; car manufacturer; reside at 47 East Twenty-seventh street, New York City.

Q. 2. Did you ever know one James Rodgers, of this city?

A. Yes.

Q. 3. How long did you know him before his death?

A. More than twenty years.

Q. 4. If you were ever associated with him in any manner, please state it, and the time.

A. I was associated with him in putting clocks in public schools Nos. 14 and 49, about the year 1854; and also in the construction and application of registering machines in omnibuses and street cars from about the year 1854 till his death; and also in the construction and application of fare-boxes, used in omnibuses and street cars, from about the year 1857; perhaps during a period of about two years at that time.

Q. 5. Please specify what your connection was with him in regard to the registers.

A. I first called his attention to a registering machine imported by me from Paris, about the year 1851, and suggested to him the manufacture and introduction of such machines to the omnibus interests of the United States. He accepted the idea and acted on it. Subsequently I called his attention to a system of fare-boxes about superseding the registers, I think in 1857.

62 Q. 6. Please state briefly what was the object of those registers.

A. The object was to preserve the integrity of the money received in public vehicles, by requiring the driver or conductor to register the fares received?

Q. 7. For about how long did he carry on the business of these registers?

A. He continued to make registers to my order occasionally till shortly before his death.

Q. 8. I understand you to say that when he commenced the register business he continued in it, till you spoke with him of the fare-box.

A. He continued to make registers until required, up to nearly the time of his death.

Q. 9. I mean—did Rogers carry on the register business up to the time when you spoke to him of the fare-box?

A. He had a comparatively active business with me up to that time.

Q. 10, Do you know the complainant in this case, Mr. Slawson?

A. I do.

Q. 11. How long have you known him?

A. Twenty-five years.

Q. 12. What connection, if any, have you had with him in regard to fare-boxes?

A. For several years, commencing about the year 1856, I manufactured them, put them in omnibuses made by us for Mr. Slawson, and also sold them to users for him.

Q. 13. Was this suggestion by you to Mr. Rodgers about fare-box made before or after you entered on this business for Mr. Slawson?

A. It was after the opening of that business by Mr. Slawson and myself, but before we commenced to make the boxes.

Q. 14. How frequently was Mr. Rodgers in your place of business from about 1854 until about 1859?

A. At intervals he was there every morning, or nearly so—scarcely a week passed for some years without seeing him.

63 Q. 15. Did Mr. Rogers ever tell you that he was about to get up a fare-box?

A. He did.

Q. 16. At what time was this?

A. About the beginning of 1858.

Q. 17. Did you ever get any of his boxes from him?

A. I did.

Q. 18. Can you state the time—about?

A. In the former part of that year.

Q. 19. In what year, if at all, did you have Slawson fare-boxes in use in this city?

A. In 1857, and thereafter.

Q. 20. In the use of those fare-boxes of Slawson, in use in 1857, was there any difficulty resulting from the money-box being clogged?

A. The money clogged in the passageway before entering the drawer.

Q. 21. What do you know about Mr. Rodgers acknowledging the connection of his box with that of Mr. Slawson?

(Objected to, as inadmissible.)

A. Mr. Rodgers told me that the box was an interference with Mr. Slawson's, and that he had compromised with Mr. Slawson by selling out his interest to Mr. Slawson.

Q. 22. You use the word "interference" in your last answer; do you or not mean by that word, infringement?

(Counsel for defendant objects to counsel for complainant suggesting the answer to witness.)

Question withdrawn.

Q. 23. You use the word "interference" in your last answer; that word has many meanings. Please state in what sense you used it.

(Objected to as inadmissible, and because entirely immaterial in what sense witness used it.)

64 A. In the technical sense as applied to patented inventions. Mr. Slawson had patented a device or devices constituting a fare-box for the reception of fares of passengers in public conveyances. Mr. Rodgers subsequently constructed a fare-box for the same purpose; in that construction some of the devices were the same as previously used by Mr. Slawson.

Q. 24. Did he (Rodgers) or not make any statement in this respect to you before he told you he had compromised with Slawson?

A. We exchanged views repeatedly with regard to such interference.

Q. 25. Did or not Rodgers give you one of his said fare-boxes to be sent to Mr. Slawson?

A. I obtained one from him for such purpose.

Q. 26. What did you do with it?

A. I think it was sent, according to that purpose, to Mr. Slawson.

Q. 27. How does the box, Complainant's Exhibit Rodgers Box, compare with the box you received from him?

A. This is a fac simile of the box.

Q. 28. Did you ever sell to Mr. Rogers any lamp adapted to be used with his box?

A. I have no recollection of ever having sold him a lamp for such purpose or adaptability. I may be mistaken about that; he did procure from me a driver's money box that had a lamp that might have been available for that purpose, but I never knew it to be so used.

Q. 29. Would you recollect such a lamp as you did sell him if you should see it?

A. We had only one kind; I would recollect it; I mean only one kind used on the outside of the omnibus that would be available for such purpose.

Q. 30. Look at the lamp now shown you, Complainant's Exhibit Rodgers Lamp, and state what it is.

A. This is a lamp attached to the Rodgers fare-box answering the double purpose of the driver's use and showing also the money between the glasses in the fare-box.

65 Q. 31. Was that the kind of lamp he used with his said fare-boxes?

A. It was.

Q. 32. Did you ever sell him such a lamp as that?

A. No.

Q. 33. Look at the paper now shown you, and state what it is.

(Objection to the witness stating what it is.)

A. This is a verified copy of a letter written by me to J. B. Slawson, then at New Orleans—letter dated Dec. 5, 1857—subject, fare-boxes.

Q. 34. From what is that copy taken?

A. From a book in our office; records of the company—letter written in my own handwriting.

(Objected that the original should be produced.)

Q. 35. Is that writing at your office the original letter or a copy?

A. The original.

Q. 36. How many originals did you have?

A. I wrote the original, and my clerk copied it and sent the copy.

Q. 37. And this paper is a true copy of the one in your office which you wrote?

(Objected to as inadmissible.)

A. It is.

Q. 38. Was that letter of which this paper is a copy written and sent at its date, Dec. 5, 1857?

(Objected to as inadmissible.)

A. It was.

66 (Paper last referred to offered in evidence, and marked "Complainant's Exhibit Stephenson Letter," objected to by defendant's counsel as inadmissible.)

Q. 39. Look at the paper now shown you, and state what it is.

(Objected to as inadmissible.)

A. This is a copy of a letter written by me under date of April 5, 1858, to J. B. Slawson & Co., then at New Orleans, on the subject of the Rodgers fare-boxes, in part apologizing to Mr. Slawson for not sending one of the boxes as had been previously promised, and describing the mechanism of the box, and also calling his attention to the probable interference of it with the Slawson patent.

Q. 40. From what is that copy taken?

A. It is taken from a book of letters now in the office of the John Stephenson Co., limited, in this city.

Q. 41. In whose handwriting is the original of this copy?

A. In my own.

Q. 42. Was a duplicate of it written and sent to J. B. Slawson & Co. April 5, 1858, by you?

(Objected to as inadmissible.)

A. I don't know that the letter was copied and sent on that date—about that date.

Q. 43. Did you or not serve, in behalf of Mr. Slawson, a notice on Rodgers in writing that he was infringing Mr. Slawson's patent by making his said fare-boxes, and requiring him to desist therefrom?

(Objected to as inadmissible.)

A. Such notice was served by directions from my office; Mr. Rodgers acknowledged to me the reception of such notice.

(Objected to as inadmissible.)

67 (Copy last referred to put in evidence, and marked "Complainant's Exhibit Stephenson Letter No. 2.")

Q. 44. Look at the paper now shown you, and state what it is.

(Same objection.)

A. It is a letter under date of May 21, 1858, written to J. B. Slawson & Co., at New Orleans, advising him that we had given Mr. Rodgers notice, as Mr. Slawson had desired, that the fare-box made by Mr. Rodgers was trespassing on his patent, and advising Mr. Slawson that Mr. Rodgers had called upon me and tried to convince me that it was not an interference, and advising him that in view of his position Mr. Rodgers would probably sell out for a reasonable consideration.

(Copy last referred to offered in evidence and marked "Complainant's Exhibit Stephenson Letter No. 3."

Objected to as before.)

Q. 45. If said Rodgers had before 1857 got up a fare-box, how likely would he have been to have shown or spoken of it to you at the time?

(Objected to as inadmissible and cumbering the record to no purpose.)

A. Mr. Rodgers' connection with checking received fares in omnibuses and cars emanated from me. His efforts and activity in that direction were instigated by me, and there was no movement made by Mr. Rodgers that I am aware of with which I was not conversant, because it was through me he expected to market it, and my approbation of the invention was a necessity for its success.

68 (Counsel for defendant excepts to the answer as not responsive nor admissible testimony.)

Q. 46. Question repeated.

A. It was extremely likely that I should have known it.

Q. 47. Do you know of any lines in this city that used the Rodgers box?

A. There were some of them, I think, on the Fifth and Fourth avenue stage lines, and perhaps on the Sixth and Eighth avenue car lines.

Q. 48. In what year.

A. 1858, I think—1857 or '58; somewhere there.

Q. 49. Do you know the handwriting of said Rodgers?

A. I wouldn't be willing to testify positively to it, though I have seen it often.

Q. 50. Do you recollect a stage line called the Consolidated Line?

A. Yes; it was a company of several.

Q. 51. On what streets did they run?

A. Fourth and Madison avenues, Broadway, and Twenty-third street. There were several lines in consolidation.

Q. 52. You speak of the Fifth and Fourth avenue lines having Rodgers' boxes. Do you mean by those lines the Consolidated Line?

A. The Fifth avenue line was not in the consolidation; the Fourth avenue was.

Q. 53. Please state whose boxes the Fifth avenue line had.

A. I think their experiment was with the Slawson box.

Q. 54. Look at the paper now shown you, marked for identification "Exhibit Rodgers No. 2," and state in whose handwriting the signature thereon is.

A. I believe that is the writing of Mr. Rodgers.

(Paper last referred to offered in evidence and marked "Complainant's Exhibit Rodgers No. 2" in the case.

69 Objected to.)

Q. 55. You state that Mr. Rodgers told you, about the beginning of 1858, that he was about to get up a fare-box, and you afterwards say that some of the Rodgers boxes were on the Fourth avenue line in 1857 or 1858; which was it?

A. 1857 is an error and ought to be stricken out.

Q. 56. You state that you only had one lamp that could be available for his box; could you produce a sample of such a lamp?

A. Yes; I produce it now.

(Lamp offered in evidence and marked Complainant's Exhibit Stephenson Lamp.)

Q. 57. Referring to the letter marked Stephenson Letter No. 3, state from what that copy is taken.

A. From a book of letters written by me, which book is now in the office and in possession of the John Stephenson Company, limited, of this city.

(Objected to as inadmissible.)

Q. 58. In whose handwriting is it from which the copy is taken?

A. My own.

Q. 59. Was or not the letter, of which this exhibit is a copy, sent to Mr. Slawson at or about its date?

A. It was.

Q. 60. You state that perhaps the Sixth and Eighth avenue lines had the Rodgers box; in what year would that be?

A. I am inclined to think that those cars did not have the Rodgers box, but the Slawson box.

Cross-examination by Mr. CROOKE:

X Q. 61. Have you any interest in this litigation; in these patents owned by Mr. Slawson?

A. No.

70 X Q. 62. Has your firm?

A. No, sir.

X Q. 63. Is Mr. Slawson one of the Stephenson Company, limited?

A. He is a stockholder.

X Q. 64. Is he one of the officers?

A. No.

X Q. 65. Is he a stockholder to a considerable amount?

A. I don't know how much stock he owns.

X Q. 66. You don't know how much he owns?

A. He is regarded as having a large interest in the company.

X Q. 67. As far as you know or believe, are you a native of this country?

A. The information derived from my parents is that I was born in Ireland.

X Q. 68. Is Mr. Slawson a native of Ireland?

A. I don't know that he is; never heard that he was.

X Q. 69. Rodgers' patent appears to have issued in February, 1858; how long before letters patent were issued to him had you been talking to him about it?

A. Probably a twelve month.

X Q. 70. How long had you known Rodgers before that?

A. Five years.

X Q. 71. Did you commence conversation with him on the subject of fare-boxes, or did he?

A. I presume the talk began with me. I have no recollection other than from correspondence and the nature of our business.

X Q. 72. What had been the nature of your business?

A. Constructing passenger registers, and I had furnished Mr. Slawson with a number of registers made by Rodgers in 1855 or 1856.

JOHN STEPHENSON.

Taken and reduced to writing, and by the witness subscribed and sworn to before me this 26th March, 1879.

B. LINCOLN BENEDICT,
Special Examiner, &c.

71 WEDNESDAY, *April 23d*, 1879.

Hearing resumed. Same appearances.

LEANDER DELAMATER, recalled for complainant, and further examined, says:

Q. 1. On your former examination you produced a certain copy of a bill of James Rodgers to John Stephenson; if you have the original of that bill please produce it.

A. That is it. (Produces bill.)

Q. 2. To whom does this original bill belong?

A. To Mr. John Stephenson.

(Complainant's counsel requests examiner to mark the bill "Exhibit Rodgers Bill, B. L. B.," and the same will be produced on the hearing of the cause for the inspection of the court. Same handed to defendant's counsel for inspection.)

Q. 3. Please look at three papers now shown you and state what they are, and in whose handwriting.

A. They are three letters written to J. B. Slawson & Co., under date of December 5, 1857, April 5, 1858, and May 21, 1858, in my own hand, as acting for Mr. Stephenson.

Q. 4. Please state whether or not those letters were sent to J. B. Slawson & Co., at or about the time of their dates respectively.

A. As far as I know they were.

(The letters referred to are marked, respectively, "Exhibit Letter 1," "Exhibit Letter 2," and "Exhibit Letter 3," and the same will be produced on the hearing of the cause for the inspection of the court; and the same are now handed to defendant's counsel for inspection.

72 Defendant's counsel excepts to the admissibility and reception of these letters.)

LEANDER M. DELAMATER.

Taken and reduced to writing, and by the witness subscribed before me this 23d day of April, 1879.

B. LINCOLN BENEDICT,
Special Examiner.

JOHN STEPHENSON, recalled for complainant, being further examined, says:

Q. 1. Have you been heretofore examined in this case?

A. I have.

(Complainant's counsel offers in evidence certified copy of letters patent of the United States granted to J. B. Slawson, as assignee of Israel Reeves, inventor, dated February 23, 1858, and numbered 19,471; same is marked "Complainant's Exhibit Reeves Patent, B. L. B.")

Q. 2. Have you read, and do you understand the letters patent now shown you, marked "Reeves Patent?"

A. Yes.

Q. 3. How does the fare-box described in that patent, and particularly represented in the drawings, correspond with the fare-boxes manufactured by you, sold and put in omnibuses by you for Mr. Slawson, commencing at about 1856, as you have previously testified?

A. The boxes accord with this description—drawings and detailed description.

Q. 4. Did you or not observe any difficulty with those boxes caused by clogging of the money in the money drawer?

A. Yes.

Q. 5. How did you remedy that difficulty, if at all?

73 A. The glass side walls of the money passage originally converged at the bottom, which caused wedging of the coin; those walls were changed to make the space rather larger at the bottom than at the top, which relieved the difficulty.

Q. 6. What is your recollection as to whether those boxes were marked as follows: "J. B. Slawson—Slawson's Patent, July 28, 1857," or words of that import?

A. I do not recollect definitely the date, but I was impressed that Mr. Slawson was remarkably careful about marking "patent" on the box.

JOHN STEPHENSON.

Taken and reduced to writing, and by the witness subscribed before me, this 23d day of April, 1879.

B. LINCOLN BENEDICT,
Special Examiner, &c.

Complainant's counsel offers in evidence an assignment by James Rodgers to J. B. Slawson, dated Aug. 18, 1858, of the patent granted to said Rodgers Feb. 23, 1858, which assignment was recorded Aug. 28, 1858, and the same is marked "Complainant's Exhibit Rodgers No. 1, B. L. B." having been heretofore marked in the same manner for identification.

(Objected to by counsel for defendant as not sufficiently proved.)

Further taking of testimony adjourned to a day to be hereafter fixed.

B. LINCOLN BENEDICT,
Special Examiner, &c.

74 *Complainant's Exhibit Slawson Patent.*

The United States Patent Office to all persons to whom these presents shall come, greeting:

This is to certify that the annexed is a true copy from the records of this office of the reissued letters patent granted J. B. Slawson, dated January 24, 1871, No. 4240, improved fare-box.

In testimony whereof I, Samuel A. Duncan, Acting Commissioner of Patents, have caused the seal of the Patent Office to be hereunto affixed, this twenty-sixth day of January, in the year of our Lord one thousand eight hundred and seventy-one, and of the Independence of the United States the ninety-fifth.

SAMUEL A. DUNCAN,
Acting Commissioner.

No. 4240. Reissue.

The United States of America to all to whom these letters patent shall come:

Whereas John B. Slawson, of New York, New York, has alleged that he has invented a new and useful improvement in passenger-fare boxes
75 (for which letters patent were issued to him, dated July 28, 1857; the same surrendered and new letters issued to him, dated May 4, 1858, which last letters having been surrendered, the same have been canceled and new letters ordered to issue to him on an amended specification), and has made oath that he is a citizen of the United States; that he verily believes he is the original and first inventor or discoverer of the said improvement, and that the same hath not, to his knowledge and belief, been previously known or used; has paid into the Treasury of the United States the sum of thirty dollars, and presented a petition to the Commissioner of Patents praying that a patent may be issued therefor:

These are, therefore, to grant to the said John B. Slawson, his executors, administrators, or assigns, for the term of fourteen years, from the twenty-eighth day of July, one thousand eight hundred and fifty-seven, the full and exclusive right and liberty of making, using, and vending to others to be used the said improvement, a description whereof is given in the annexed schedule, and made a part of these presents.

In testimony whereof I have caused these letters to be made patent, and the seal of the Patent Office to be hereunto affixed.

Given under my hand, at the city of Washington, this twenty-fourth day of January, in the year of our Lord one thousand eight hundred and seventy-one, and of the Independence of the United States of America the ninety-fifth.

W. T. OTTO,
Acting Secretary of the Interior.

Countersigned and sealed with the seal of the Patent Office.
[SEAL.] SAM'L A. DUNCAN,
Acting Commissioner of Patents.

76 UNITED STATES PATENT OFFICE.

John B. Slawson, of New York, N. Y. Improvement in passenger-fare boxes. Specification forming part of letters patent No. 17899, dated July 28, 1857; reissue No. 550, dated May 4, 1858; reissue No. 4240, dated January 24, 1871.

To all whom it may concern:

Be it known that I, John B. Slawson, formerly of New Orleans, in the State of Louisiana, now of the city, county, and State of New York, have invented a certain new and useful box for receiving the fares of passengers in omnibuses, cars, &c., for the prevention of frauds on the part of drivers and conductors, in connection with such fares, upon the proprietors, &c., of which the following is a full, clear, and exact description, reference being had to the accompanying drawing, making part of this specification, in which—

Figure 1 represents a front view of the box or apparatus suitable for

use in a car, omnibus, &c. Fig. 2 represents a vertical section taken centrally through Fig. 1. Fig. 3 represents a side elevation of the box, with one side removed to show a portion of the working apparatus; and Fig. 4, a similar view of the other side. Fig. 5 represents a vertical transverse section taken across the forward end of the top of an omnibus or stage, immediately in front of one of my boxes as arranged for use.

The object of my invention is to provide a means of preventing frauds on the proprietors of cars, stages, omnibuses, and other vehicles used for the transportation of passengers for hire, by the drivers or conductors.

To effect this the apparatus employed must be capable of allowing the following conditions to be carried into effect, to wit: first, it must be a safe place of deposit as against the driver, conductor, passengers, or other persons—that is to say, sufficiently safe to prevent abstraction of fares without the use of violence; secondly, it must be so constructed as to enable the passengers themselves to deposit their fare therein, which is a duty imperatively required of them, the driver or conductor, under no circumstances, being allowed to handle or receive it; thirdly, it must be provided with two compartments or chambers, the one for the passengers to deposit their fare in, and the other to act as a receptacle for holding the accumulated fares as collected during the trip; fourthly, the chamber or compartment into which the passengers deposit their fare must be provided with an opening covered or protected by a transparent medium or device, so arranged as that the driver or conductor, as the case may be, may examine and scrutinize the fare as it is deposited, to see that the full amount of fare has been deposited in good and lawful money or genuine tickets before it is passed into the second or general receiving chamber; fifthly, the chamber into which the passengers deposit their fare must be so constructed or otherwise provided with suitable means of temporarily arresting the fare as it is deposited therein as to enable the driver, &c., to examine it for the purposes mentioned before it is passed into the second or general receiving compartment; sixthly, the chamber or compartment into which the passengers deposit their fare should be provided with an opening covered or protected by a transparent medium or device, so arranged as that when the fare is temporarily arrested therein they may be able to see and examine it before it is passed into the second or receiving chamber. By this means disputes and contentions are prevented as to the sufficiency of the amount deposited to pay the fare, or as to the genuineness of the money or tickets used for that purpose. It also enables the passenger, where he has unintentionally deposited more than the amount of his fare, to call the attention of the driver to that fact, so that he, should the passenger require the difference paid back to him, may report the case to the proprietor or his agent on reaching the end of the route, who will then pay the difference to the passenger, who, for this purpose, must ride to the office at the end of the route, the driver or conducter in no case being allowed to rectify any mistake, save at their own expense; seventhly, the apparatus must be so arranged and combined with the car or stage, &c., as to be at once convenient for the driver or conductor to examine and verify the correctness of the fare as it is deposited, without leaving his post, and for the passengers to deposit their fare therein, and, if need be, to examine it afterward; and lastly, the apparatus must be so constructed as that after the fare has been temporarily arrested for the purpose of being examined and scrutinized, as before mentioned, the fare may be passed

into the second or general receiving compartment into which all the fares are collected.

77 My invention for the purpose of carrying these conditions into effect consists of a box divided into two chambers or compartments, into one of which is arranged a narrow and somewhat elongated orifice or mouth, through which the passengers are required to deposit their fare, which must be paid either by ticket or by the exact amount in lawful money. In one side of this chamber is arranged an opening covered or protected by a transparent medium or device, by means of which the driver or conductor may examine the fare, for which purpose the latter is temporarily arrested by means of a movable apron or partition suitably arranged in the bottom. Immediately opposite this transparent medium I arrange another in the same chamber, through which the passengers can examine the fare after they have deposited it, and before it has been passed into the second or general receiving-chamber.

The two chambers are separated from each other by means of a movable apron or partition, so constructed and arranged as to turn on bearings as on an axis when acted on by a lever. This apron, on being turned so as to depress it, suffers the fare to pass from the one chamber to the other—the one for this purpose being arranged above the other, it being both simple and efficient.

The lower chamber is occupied by a drawer which is made the receptacle of all the fares as they are collected during the progress of the trip. The drawer is provided with a lock, whereby it is securely locked to the fare-box, and is only accessible without violence to the proprietor or his agent on the arrival of the stage, car, &c., at the end of the route, where it is unlocked and its contents removed; the drawer is then replaced and relocked ready for another trip.

The fare-box thus constructed is, as a rule, arranged at the front end of the inside of the omnibus or car, so as to be within convenient reach of the driver for examination, &c., without leaving his post, the mouth side through which the fare is deposited being arranged so as to face the passengers.

In this connection it may be remarked that, as a rule, where these fare-boxes are used, the services of a conductor may be dispensed with as the driver will be found sufficient for the purpose; yet, where a conductor is deemed necessary, as in crowded thoroughfares where there is much travel, then the box may be arranged at the rear of the car, with its opening for depositing the fare, as before, facing the passengers, the conductor in that case examinging the fare instead of the driver.

To enable others skilled in the art to make, construct, and use my improved fare-box, I will now proceed to describe its parts in detail, reference being had to the accompanying drawing of the same.

The apparatus represented in the drawing for carrying my invention into practical effect consists of a box divided into two chambers, J and I, or compartments, the one arranged above the other, there being an opening or passage, H, communicating between the two.

The upper chamber J is provided on one side, and which is usually the side next the end of the car or omnibus, with an opening covered or protected by a transparent medium or device, *e*, so arranged that the driver, through a corresponding opening made in the end of the car or omnibus,

may look into its interior to examine the fare as it is deposited by the passengers, and on the opposite side with another opening covered or protected by a transparent medium or device, *d*, through which the passengers may also examine their fare after they have deposited it, for which purpose the fare is temporarily arrested by a suitable device before it is passed into the lower chamber I, as will shortly hereinafter be described.

Over the opening or passage H is arranged a substantial apron, *f*, of a size sufficient nearly to cover it, and in such manner as to form a movable partition between the upper and lower compartment. For this purpose it is rigidly secured at one side to a rock-shaft, F, which is mounted in bearings suitably arranged in the side pieces C and C′, which form part of the internal frame of the apparatus. On one end of this rock-shaft F is mounted and secured, in any well-known manner, one end of a crank-lever, *g*, to the other end of which is secured a wrist-pin, *r*, on which is mounted, as on a pivot, the inner end of a weighted lever, G, the other end of which is made to project through the casing of the box and the front end of the omnibus or car, within convenient reach of the driver.

By this arrangement the latter can, at his will, in the manner and for the purposes hereinafter to be described, raise or depress the apron, so as to open or close the passage H that leads to the compartment I or drawer below, as shown in Fig. 3.

In the side of the compartment J occupied by the glass window *d* is cut or otherwise formed a narrow but somewhat elongated opening or mouth, *e*, for the use of the passengers through which to deposit their fare into the box.

The lower compartment I is made of such size and shape as will enable it to receive a drawer, I, of a capacity sufficient to hold all the fares likely to be collected during one or two trips, or even of all the trips of the omnibus or car made in a day.

The front part of this drawer I is provided with a lock, by means of which it is securely locked to the front piece D of the inner frame of the apparatus.

If deemed advisable for additional security, a plate may be fitted over so as to cover the key-hole of the lock in such manner that two lugs or loops, *q*, secured and projecting from the front plate of the lock, may pass through openings cut in the plate, so that by passing the bolt *r* of a permutation-lock, *s*, through the eye of each loop *q*, and then locking it, the drawer is doubly locked, thereby furnishing a reasonable security against the abstraction of the fares from the box by the driver, conductor, passengers, or other persons.

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On that end of the shaft F that has its bearings in the side piece C′ is firmly secured a lever, *o*, which is so arranged that, when the rock-shaft is suddenly turned to depress the apron *f* sufficiently to pass the money into the drawer or chamber I below, it will strike the upper end of a pivoted hammer, *n*, thereby causing its other end to strike and sound the bell *m*, which is suitably arranged and secured to the side piece C′ for that purpose.

The sounding of the bell is a notice to the driver or conductor that he has depressed the apron *f* sufficiently to pass the fare from the upper to the lower chamber or general receiving-drawer. Should he otherwise not hear the sound of the bell, he must operate the lever G again until he hears

it. In order that the apparatus should be as compact as possible, the bell *m*, hammer *n*, and lever *o* are arranged to operate in a recess cut in the side of the side piece C′, as indicated in Fig. 4, and so with the lever G and its adjuncts, which are also arranged in a recess cut in the side of the other side piece C, as represented in Fig. 3.

The inner frame of the box to which the working parts of the apparatus are attached consists of two side pieces, C and C′, and two cross-pieces, D and D′, firmly secured together in any suitable manner.

The passage H, which leads to the drawer or chamber I, is formed by the inclined surface *h* and *i* of the cross-pieces D and D′. The inclination of its surface serves to guide the fare into the drawer, while acting as a recess for the reception of the apron *f* on being depressed.

The normal position of the apron when arranged to arrest the fare is such as to cover the opening of the passage H, in which position it is held by means of the lever G, properly weighted so as to be self-acting in this respect.

The operative parts of the apparatus having been mounted and secured to the internal frame, substantially as described and represented in Figs. 2, 3, and 4, the whole may be incased within an outside shell, as shown in Figs. 1, 2, and 5, in such manner as to form two chambers, I and J. Of this case the transparent media *c* and *d* form part of the front and rear, for which purpose they are suitably framed in, and secured to the case, as seen in Fig. 2. Of this case, *a* and *a′* represent the sides of the box, and *b* the lower portion of the end of the box next to the driver, while the front of the drawer I, and the transparent medium *d*, act as the casing of the opposite end or side of the box. The top and bottom of the box are also suitably inclosed with covers firmly secured to the sides *a* and *a′*, thereby completing a strong and compact box.

When applied to a stage or omnibus, the roof of the vehicle may be used as the cover of the top of the box, and the front end as the side in which the transparent medium *c* is arranged; but when applied to a car it would require an independent cover to the top.

The box thus constructed is ready to be applied to any car, omnibus, or other vehicle. In the drawing, Fig. 5, it is represented as applied to an omnibus or stage, for which purpose it is arranged on one side of the elevated part of the top of the stage, while on the other side is arranged the opening through which the strap is passed that keeps the stage-door closed, and through which the driver makes change for the passengers, or sells them tickets.

When applied to a car it will be arranged lower down alongside the door-frame in the front part of the car, or in any other suitable place, so long as it is within reach and view of the driver without leaving his post, so that he can conveniently examine through the transparent medium C each fare as it is deposited by the passengers; and so that, after he has examined the fare and become satisfied of its correctness, he can pass it into the receiving drawer or chamber.

The operation is as follows: The passenger on entering is required to pay his fare. If he has the correct amount he deposits it through the mouth *e* into the chamber J. Here it is arrested upon the apron *f*. The driver, looking through the transparent medium C, examines it. If he is satisfied that it is correct, he then forces back the weighted lever G un-

til he hears the sound of the bell, which action will have caused the apron *f* to turn down, and thus drop the fare into the chamber or drawer I below, after which he draws the lever G forward until the apron *f* again covers the mouth of the passage H, when it is again in position to arrest the next fare. This is the operation where the lever that operates the apron is not made self-adjusting when left to itself after depressing the apron to deposit the fare; but as the driver might forget to adjust the apron properly, or fail to do it properly when he tried, it is deemed better to use a weighted lever, such as that shown in lever G of Fig. 3, which, by virtue of its specific gravity, properly distributed for the purpose, is made self-acting.

In the apparatus here described the operation of the apron *f* to deposit the fare is made the duty of the driver or conductor, and not of the passengers, this arrangement being deemed more conducive to the interests of the owners of the cars, as otherwise a dishonest passenger may deposit less than the fare, or pay it in spurious money, and then operate the apron so as to deposit it in the box below before the driver had time to examine it.

Nor is the bell *m* deemed absolutely requisite, as with a little attention the driver can always see when the fare has been safely deposited into the drawer I below.

79 To enable passengers to pay the exact amount of their fare, the driver is provided with a certain amount of change and tickets, which he is required to furnish to the passengers as required, he, on his return to the end of the route, being required to account for the same to the proprietor or his agent to the full amount furnished him.

Notice to the passengers that the driver can furnish them either with change or tickets is conspicuously posted on the inside of the stage; as, also, that they must deposit the exact amount of their fare in the box themselves, and warning them not to pay it to the driver, who is not allowed to receive it.

Having thus described my invention, what I claim as new, and desire to secure by letters patent, is—

1. A fare-box composed of two compartments, so combined that the fare, on being deposited through an opening in one of them by the passenger without the intervention of the driver or conductor, shall be temporarily arrested therein for examination and inspection by the driver or conductor through an opening therein, covered by a transparent medium, and then, when approved of, transferred directly to the second or general receiving compartment, which, as well as the first, is made inaccessible, except by violence, to the driver or other unauthorized person, for the purpose set forth.

2. A fare-box having two compartments, into one of which the fare is first deposited and temporarily arrested previously to its being deposited in the other, when the former is provided with openings covered or protected by transparent media or devices, so arranged that the passengers can see through one and the driver or conductor through the other, in the manner substantially as and for the purposes set forth.

J. B. SLAWSON.

Witnesses:

S. B. LAW,

F. E. VAN AUKEN.

(Here follows diagram marked page 80.)

81 *Complainant's Exhibit Extension Certificate.*

DEPARTMENT OF THE INTERIOR.

United States Patent Office to all to whom these presents shall come, greeting:

This is to certify that the annexed is a true copy from the records of this office, of the certificate of extension in the matter of the re-issue letters patent granted John B. Slawson, dated January 24th, 1871, No. 4240, for imp't in passenger-fare boxes.

In testimony whereof, I, W. H. Doolittle, Acting Commissioner of Patents, have caused the seal of the Patent Office to be hereunto affixed, this twenty-second day of November, in the year of our Lord one thousand eight hundred and seventy-eight, and of the Independence of the United States the one hundred and third.

[SEAL.] W. H. DOOLITTLE,
Acting Commissioner.

Certificate of extension.

Whereas upon the petition of John B. Slawson, of New York, New York, for the extension of the patent granted to him July 28, 1857, re-issued May 4, 1858, and again re-issued January 24, 1871, for an "improvement in passenger-fare boxes," the undersigned, in accord-
82 ance with the act of Congress, approved the 8th day of July, 1870, entitled "An act to revise, consolidate, and amend the statutes relating to patents and copyrights," did, on the twelfth day of July, 1871, decide that said patent ought to be extended:

Now, therefore, I, Mortimer D. Leggett, Commissioner of Patents, by virtue of the power vested in me by said act of Congress, do renew and extend the said patent, and certify that the same is hereby extended for the term of seven years, from and after the expiration of the first term, viz: from the twenty-eighth day of July, 1871, which certificate being duly entered of record in the Patent Office, the said patent has now the same effect in law as though the same had been originally granted for the term of twenty-one years.

In testimony whereof I have caused the seal of the Patent Office to be hereunto affixed this twelfth day of July, 1871, and of the Independence of the United States the ninety-sixth.

[SEAL.] M. D. LEGGETT,
Commissioner.

83 *Complainant's Exhibit Disclaimer.*

DEPARTMENT OF THE INTERIOR.

United States Patent Office to all persons to whom these presents shall come, greeting:

This is to certify that the annexed is a true copy from the files of this office of the disclaimer filed September 6, 1877, in the matter of the re-issue letters patent, granted John B. Slawson, dated January 24, '71, No. 4240, for improvement in passenger-fare boxes.

In testimony whereof, I, W. H. Doolittle, Acting Commissioner of Patents, have caused the seal of the Patent Office to be hereunto affixed, this ninth day of November, in the year of our Lord one thousand eight hundred and seventy-eight, and of the Independence of the United States, the one hundred and third.

[SEAL.] W. H. DOOLITTLE,
Acting Commissioner.

John B. Slawson, of New York, N. Y. Re-issue letters patent, No. 4240, dated January 24, '71. Improvement in passenger-fare boxes. Disclaimer filed Sept. 6, 1877.

Your petitioner, John B. Slawson, of the city, county, and State of New York, represents that he obtained letters patent of the United States, No. 17899, on the 28th day of July, 1857, for improved fare-box, and which letters patent were subsequently surrendered and re-issued on the
84 4th day of May, 1858, and No. 550, and were again surrendered, and new letters patent issued therefor on the 24th day of January, 1871, and numbered 4240, and which said letters patent were on the 12th day of July, 1871, in accordance with law duly extended for a new term of seven years from and after the expiration of the first term, viz: from the 28th day of July, 1871, and that he is now the sole owner of said patent, and that he has reason to believe that through inadvertence, accident, or mistake, the specification and claim of said letters patent are too broad, including that of which said patentee was not the first inventor:

Your petitioner therefore enters his disclaimer to that part of the claims in said specification, which is in the following words, to wit:

"1st. A fare box composed of two compartments, so combined that the fare, on being deposited through an opening in one of them by the passenger without the intervention of the driver or conductor, shall be temporarily arrested therein for examination and inspection by the driver or conductor, through an opening therein covered by a transparent medium, and then, when approved of, transferred directly to the second or general receiving compartment, which, as well as the first, is made inaccessable, except by violence, to the driver or other unauthorized person for the purpose set forth."

J. B. SLAWSON.

Witnesses:
B. HANNAY.
D. G. STUART.

85 *Complainant's Exhibit Middleton Patent.*

DEPARTMENT OF THE INTERIOR.

United States Patent Office to all persons to whom these presents shall come, greeting:

This is to certify that the annexed is a true copy from the records of this office of the letters patent granted Elijah C. Middleton, December 12th, 1871. No. 121920, for improvement in fare-boxes.

In testimony whereof, I, W. H. Doolittle, Acting Commissioner of Patents, have caused the seal of the Patent Office to be hereunto affixed this twenty-third day of July, in the year of our Lord one thousand eight hundred and seventy-eight, and of the Independence of the United States the one hundred and third.

[SEAL.] W. H. DOOLITTLE,
Acting Commissioner.

No. 121920.

The United States of America to all to whom these presents shall come:

Whereas James F. Winchell, of Springfield, Ohio, has presented
86 to the Commissioner of Patents a petition praying for the grant of letters patent for an alleged new and useful improvement in fare-boxes (he having assigned his right, title, and interest in said improvement to Elijah C. Middleton, of same place) a description of which invention is contained in the specification of which a copy is hereunto annexed and made a part hereof, and has complied with the various requirements of law in such cases made and provided; and

Whereas upon due examination made the said claimant is adjudged to be justly entitled to a patent under the law;

Now therefore these letters patent are to grant unto the said Elijah C. Middleton, his heirs or assigns, for the term of seventeen years from the twelfth day of December, one thousand eight hundred and seventy-one, the exclusive right to make, use, and vend the said invention throughout the United States and the Territories thereof.

In testimony whereof I have hereunto set my hand and caused the seal of the Patent Office to be affixed, at the city of Washington this twelfth day of December, in the year of our Lord one thousand eight hundred and seventy-one, and of the Independence of the United States of America the ninety-sixth.

B. R. COWEN,
Acting Secretary of the Interior.

Countersigned:
[SEAL.] M. D. LEGGETT,
Commissioner of Patents.

(Here follows diagram marked page 87.)

88 UNITED STATES PATENT OFFICE.

James F. Winchell, of Springfield, Ohio, assignor to Elijah C. Middleton, of same place. Improvement in fare-boxes. Specification forming part of letters patent No. 121920, dated December 12, 1871.

To all whom it may concern:

Be it known that I, James F. Winchell, of Springfield, in the county of Clark, and State of Ohio, have invented a new and useful improvement in fare-boxes; and I do hereby declare the following to be a full, clear, and exact description of the same, reference being had to the accompanying drawing, in which—

Figure 1 is a front elevation of my fare-box, with portions of the shell broken away to expose the interior. Fig. 2 is a vertical longitudinal section of the same. Fig. 3 is a vertical cross-section to show a modified construction.

This improvement relates to the mode of illuminating the interior of a fare-box in street-railway cars or other vehicles when used during the night; and it consists in the construction of the fare-box with suitable openings and reflectors, arranged and adapted to receive light from the ordinary head-lamp placed above the fare-box instead of requiring a separate lamp to illuminate it, as heretofore. The objections to the employment of a separate lamp are well known to those familiar with the use of fare-boxes. They not only require additional expense in the construction and fitting of the fare-box, but also the additional expense of maintaining a separate light; and this lamp itself is generally disagreeable from the smoke and burned air which escapes from it into the carriage, and it also renders the fare-box less secure and more difficult to keep clean internally than is the case with my invention.

In my method of illuminating the fare-box no light is used which would otherwise be utilized, because the reflector which throws light into the fare-box is placed at the side, and does not receive any light which would otherwise pass into the car or through the bull's eye in front.

That others may fully understand my invention, I will particularly describe it.

A is the fare-box, constructed with a chamber, B, for the reception and temporary detention of the ticket while the same is being inspected by the driver or other authorized person looking through a glass window, C, and, after inspection, the fare to be transferred to another chamber or safe, D, below. I do not confine myself to any particular mode of constructing or arranging these parts, which are well understood and require no further description.

The lamp E is always located in the front of the car, at or near the top of the door, and sheds its light forward through the bull's eye F and backward into the car through the window G. The light which passes away laterally from the flame meets the sides of the lamp-chamber and ordinarily is not utilized.

I construct the fare-box with an orifice, H, in its top, which is formed by the floor of the lamp-chamber. Said orifice is closed with a sheet of glass to prevent any access to the interior of the fare-box by that way. Immediately above the opening H I place in the roof of the lamp-chamber the mirror or reflector I in such oblique position as will cause the light which falls upon said mirror to be reflected through the opening H into the fare-box to illuminate the chamber B, in which the fare is temporarily arrested, as shown by lines in Figs. 1 and 2. The mirror I may be flat, but is preferably made concave, as more light may thereby be reflected through the opening H than from a flat reflector. If for any cause it is not convenient to reflect the light downward through the middle of the fare-box, it may, by the use of a second mirror, J, as shown in Fig. 3, be carried down the outer side and thrown into the receiving-chamber horizontally through a window, K.

Having described my invention, what I claim, and desire to secure by letters patent, is—

In testimony whereof, I, W. H. Doolittle, Acting Commissioner of Patents, have caused the seal of the Patent Office to be hereunto affixed this twenty-third day of July, in the year of our Lord one thousand eight hundred and seventy-eight, and of the Independence of the United States the one hundred and third.

[SEAL.]

W. H. DOOLITTLE,
Acting Commissioner.

No. 121920.

The United States of America to all to whom these presents shall come:

Whereas James F. Winchell, of Springfield, Ohio, has presented
86 to the Commissioner of Patents a petition praying for the grant of letters patent for an alleged new and useful improvement in fare-boxes (he having assigned his right, title, and interest in said improvement to Elijah C. Middleton, of same place) a description of which invention is contained in the specification of which a copy is hereunto annexed and made a part hereof, and has complied with the various requirements of law in such cases made and provided; and

Whereas upon due examination made the said claimant is adjudged to be justly entitled to a patent under the law;

Now therefore these letters patent are to grant unto the said Elijah C. Middleton, his heirs or assigns, for the term of seventeen years from the twelfth day of December, one thousand eight hundred and seventy-one, the exclusive right to make, use, and vend the said invention throughout the United States and the Territories thereof.

In testimony whereof I have hereunto set my hand and caused the seal of the Patent Office to be affixed, at the city of Washington this twelfth day of December, in the year of our Lord one thousand eight hundred and seventy-one, and of the Independence of the United States of America the ninety-sixth.

B. R. COWEN,
Acting Secretary of the Interior.

Countersigned:
[SEAL.]

M. D. LEGGETT,
Commissioner of Patents.

(Here follows diagram marked page 87.)

88 UNITED STATES PATENT OFFICE.

James F. Winchell, of Springfield, Ohio, assignor to Elijah C. Middleton, of same place. Improvement in fare-boxes. Specification forming part of letters patent No. 121920, dated December 12, 1871.

To all whom it may concern:

Be it known that I, James F. Winchell, of Springfield, in the county of Clark, and State of Ohio, have invented a new and useful improvement in fare-boxes; and I do hereby declare the following to be a full, clear, and exact description of the same, reference being had to the accompanying drawing, in which—

Figure 1 is a front elevation of my fare-box, with portions of the shell broken away to expose the interior. Fig. 2 is a vertical longitudinal section of the same. Fig. 3 is a vertical cross-section to show a modified construction.

This improvement relates to the mode of illuminating the interior of a fare-box in street-railway cars or other vehicles when used during the night; and it consists in the construction of the fare-box with suitable openings and reflectors, arranged and adapted to receive light from the ordinary head-lamp placed above the fare-box instead of requiring a separate lamp to illuminate it, as heretofore. The objections to the employment of a separate lamp are well known to those familiar with the use of fare-boxes. They not only require additional expense in the construction and fitting of the fare-box, but also the additional expense of maintaining a separate light; and this lamp itself is generally disagreeable from the smoke and burned air which escapes from it into the carriage, and it also renders the fare-box less secure and more difficult to keep clean internally than is the case with my invention.

In my method of illuminating the fare-box no light is used which would otherwise be utilized, because the reflector which throws light into the fare-box is placed at the side, and does not receive any light which would otherwise pass into the car or through the bull's eye in front.

That others may fully understand my invention, I will particularly describe it.

A is the fare-box, constructed with a chamber, B, for the reception and temporary detention of the ticket while the same is being inspected by the driver or other authorized person looking through a glass window, C, and, after inspection, the fare to be transferred to another chamber or safe, D, below. I do not confine myself to any particular mode of constructing or arranging these parts, which are well understood and require no further description.

The lamp E is always located in the front of the car, at or near the top of the door, and sheds its light forward through the bull's eye F and backward into the car through the window G. The light which passes away laterally from the flame meets the sides of the lamp-chamber and ordinarily is not utilized.

I construct the fare-box with an orifice, H, in its top, which is formed by the floor of the lamp-chamber. Said orifice is closed with a sheet of glass to prevent any access to the interior of the fare-box by that way. Immediately above the opening H I place in the roof of the lamp-chamber the mirror or reflector I in such oblique position as will cause the light which falls upon said mirror to be reflected through the opening H into the fare-box to illuminate the chamber B, in which the fare is temporarily arrested, as shown by lines in Figs. 1 and 2. The mirror I may be flat, but is preferably made concave, as more light may thereby be reflected through the opening H than from a flat reflector. If for any cause it is not convenient to reflect the light downward through the middle of the fare-box, it may, by the use of a second mirror, J, as shown in Fig. 3, be carried down the outer side and thrown into the receiving-chamber horizontally through a window, K.

Having described my invention, what I claim, and desire to secure by letters patent, is—

Lighting the interior of a fare-box at night by light obtained from the head-lamp of the car, thrown by the reflector I, through an opening, H, in the head-lamp box, into the chamber for the temporary detention of the fare for inspection, substantially in the manner and for the purpose set forth.

J. F. WINCHELL. [L. S.]

Witnesses:
HENRY HOWE.
E. C. MIDDLETON.

89 DEPARTMENT OF THE INTERIOR.

United States Patent Office to all persons to whom these presents shall come, greeting:

This is to certify that the annexed is a true copy from the records of this office of an assignment recorded in Liber V 16, page 77, and that said annexed copy has been compared by me with the original, and that it is a correct transcript therefrom and of the whole of the original.

In testimony whereof I, W. H. Doolittle, Acting Commissioner of Patents, have caused the seal of the Patent Office to be hereunto affixed this first day of November, in the year of our Lord one thousand eight hundred and seventy-eight, and of the Independence of the United States the one hundred and third.

[L. S.] W. H. DOOLITTLE,
Acting Commissioner.

90 Liber V 16 page 77.

Whereas on the first day of May, A. D., 1871, James F. Winchell, of Springfield, in the county of Clark and State of Ohio, did assign, sell, and convey to Elijah C. Middleton, of the same place, all his right, title, and interest in three certain inventions or improvements in fare-boxes, for which he, as inventor thereof, had made or was about to make applications for letters patent of the United States, and in and to any letters patent which may be issued therefor; and did in the same instrument also sell, assign, and convey to the said Middleton all his right, title, and interest in and to two other inventions or improvements, to wit, an improved change-gate and an improved mode of lighting fare-boxes, and in and to any letters patents of the United States which may be granted therefor, but for which
91 at that time the necessary applications had not then been prepared; and did in the same instrument also sell, assign, and convey "all improvements in or modifications of the same" which he might thereafter make.

And whereas by virtue of said assignment three several patents have been since issued to the said Elijah C. Middleton for said improvements, as assignee of said James F. Winchell, to wit, letters patent numbered 115999, and dated the thirteenth day of June, A. D. 1871; letters patent numbered 121920, and dated the twelfth day of December, A. D. 1871; and letters patent numbered 136118, and dated the 18th day of February, A. D. 1873.

And whereas under and by virtue of said assignment the said Elijah C. Middleton has caused the said James F. Winchell to prepare

92 and file four other applications for letters patent of the United States for said improvements in fare-boxes, and which applications are still pending before the office, to wit, one filed on the first day of May, A. D. 1871, one filed on the first day of April, A. D. 1872, one filed on the twelfth day of April, 1872, and one filed on the sixth day of September, A. D. 1872. And whereas under and by virtue of said assignment the said James F. Winchell, at the instance of the said Elijah C. Middleton, has prepared three other models embodying further improvements in fare-boxes, and in change-gates for use in connection with the fare-box system, made by said Winchell preparatory to applying for letters patent therefor. And whereas while the said James F. Winchell has, by

93 the aforesaid assignment parted with or divested himself of all his right, title, and interest in and to said inventions and in and to any letters patent of the United States which may be granted therefor, he, by reason of an understanding and agreement with said Elijah C. Middleton, has an one-third interest in the profits arising from the manufacture and sale of said improvements in fare-boxes, change-gates, and other apparatus connected with the fare-box system of collecting fares from passengers in public conveyances.

And whereas the said Elijah C. Middleton, assignee aforesaid, and the said James E. Winchell, as inventor, and as a participant in the profits arising from the manufacture and sale of any and all of said inventions and fare-boxes, are desirous of selling all their right, title, and

94 interest in and to said inventions; and in and to all letters patent which are now or may hereafter be granted therefore. And whereas to this end the said Elijah C. Middleton, for himself, and James F. Winchell for himself, and both of them jointly, are willing to covenant and agree that each of them singly, or both of them jointly shall abstain from either manufacturing, selling, or using, either directly or indirectly, fare-boxes, change-gates, or any apparatus pertaining to the fare-box system of collecting passengers' fares, without a special license from the purchaser of the inventions hereinbefore referred to, and are further willing to the same end to covenant and agree to and with said purchaser

95 to notify him, his heirs or assigns whenever they or either of them may hereafter discover or make any other or further improvement or improvements in fare-boxes, change-gates, or apparatus pertaining to the fare-box system, and then at his request to assign to him, his heirs, executors, administrator, or assigns, all his or their right, title, and interest in and to said improvement or improvements, and in and to any and all letters patent which may be granted therefor; and are further willing to covenant and agree to execute any and all papers and instruments necessary to vest in and convey said title to said purchaser, and to enable him to make application for letters patent in due form, for each and every of the said improvements and inventions, whether the same be for

96 inventions now perfected and complete, or for said inventions in process of being perfected and completed, or for such improvements in this class as they may hereafter make; and further that they or either of them will execute at any and all times such papers as are necessary to apply for a reissue or reissues in due form of any one or all of the patents which are now or may hereafter be granted for any one or all of said inventions, whenever said purchaser, his heirs or assigns, may call on them

or either of them so to do, but always at the proper cost and expense of said purchaser.

And whereas John B. Slawson, of the city, county, and State of New York, is willing to purchase of the said Elijah C. Middleton and
97 the said James F. Winchell the exclusive right, title, and interest in and to said inventions, and in and to all letters patent which have been or may hereafter be granted therefor, conditioned upon the faithful compliance with and performance of the foregoing conditions by the said Elijah C. Middleton, and by the said James F. Winchell, whether as individuals or jointly:

Now, therefore, this indenture witnesseth that we, the said Elijah C. Middleton and James F. Winchell, for and in consideration of the sum of three thousand dollars to us in hand paid by the said John B. Slawson, and for the further consideration that the said Slawson will license for use under his patents the full number of sixty-seven fare-boxes, but no more, on the style of box made by said Elijah C. Middleton, and known
98 as the "Champion" fare-box, and which said number shall include, among those yet to be made, all those boxes already made by the said Middleton, in order to complete the said number of sixty-seven, and will grant the privilege of using, in connection with said boxes, any of the devices covered by patents of the said John B. Slawson, in order to render them more perfect or useful, do hereby sell and assign to the said John B. Slawson, his heirs and assigns, all the right, title, and interest which we, or either of us, have in and to the letters patent of the United States numbered 115999, and dated the thirteenth day of June, A. D. 1871, and in and to the letters patent numbered 121920, and dated the
99 twelfth day of December, A. D. 1871, and in and to the letters patent numbered 136118, and dated the 18th day of February, A. D. 1873, each having been granted to Elijah C. Middleton, as assignee of James F. Winchell, for improvements in fare-boxes, and all our right, title, and interest in and to the inventions or improvements described or illustrated in said letters patent; and we do hereby further sell and assign to the said John B. Slawson, his heirs and assigns, all the right, title, and interest, either at law or in equity, which we or either of us have in the inventions described and illustrated in each and all of the applications of James F. Winchell for letters patent now pending and on file in the United States Patent Office, for improvements in fare-boxes, cash-
100 boxes for fare-boxes, change-gates, safety-drawers for fare-boxes, or other apparatus connected with the fare-box system of collecting passengers' fares, among which we enumerate or mention the applications filed, respectively, on the first day of May, A. D. 1871, on the first day of April, 1872, on the twelfth day of April, 1872, and the one filed on the sixth day of September, 1872. And we do hereby further sell and assign to the said John B. Slawson, his heirs and assigns, all the right, title, and interest which we, or either of us, have in and to all inventions or improvements in fare-boxes, in cash-boxes, and safety-drawers pertaining to fare-boxes, in change-gates, and in apparatus connected with the fare-box system of collecting fares from passengers in public conveyances,
101 which we, or either of us, have made and perfected, but for which applications for letters patent as yet have not been prepared and filed, as also in and to all such inventions in this class as we, or either of us, have conceived, but have only partially perfected or reduced to practice.

And we, the said Elijah C. Middleton and James F. Winchell, each for ourselves and jointly, do hereby bind and obligate ourselves, our heirs, executors, and administrators to assign and convey to the said John B. Slawson, his heirs or assigns, at his or their request, all improvements in fare-boxes or in apparatus pertaining to the fare-box system when made which we, or either of us, may hereafter make and perfect or cause to be made and perfected. And we, the said Elijah C. Middleton and James F.
102 Winchell, each for himself and jointly, when necessary, do hereby further bind and obligate ourselves unto the said John B. Slawson, his heirs and assigns, at his or their request and proper cost and expense, to prepare and execute, or cause to be prepared and executed, at any and all times, all papers and instruments of writing, drawings, and models necessary either to make application of the United States in due form for letters patent for any one of and all of said inventions, or for making and filing caveats therefor, or for making an application or applications for a reissue or reissues of any one or of all of said letters patent which are now or may hereafter be granted for said inventions or any of them;
103 and to make and execute at any and all times such other and further papers and instruments of writing as may be deemed necessary by the said John B. Slawson or his counsel learned in the law, to convey to and vest in him, his heirs, and assigns the exclusive right in and title to the invention hereinbefore referred to, and to all patents which are now or may hereafter be granted therefor. And we do hereby authorize and request the Commissioner of Patents to issue the letters patent for each and every of said inventions on due application being made to the said John B. Slawson, his heirs and assigns.

And lastly, the said Elijah C. Middleton for himself, and James F. Winchell for himself, do hereby bind and obligate themselves unto
104 the said John B. Slawson and his legal representatives not to engage hereafter either directly or indirectly in the manufacture or sale of fare-boxes, change-gates, cash-boxes, or safety drawers for fare-boxes, or of any other apparatus connected with the fare-box system of collecting fares from passengers in public conveyances, further than may be necessary to complete the full complement or number of sixty-seven boxes hereinbefore provided for, and which number it is distinctly understood includes or embraces all those boxes heretofore made by us, whether sold and in use or on hand or in progress of construction for delivery or sale at this time.

105 In witness whereof we have hereunto set our hands this seventeenth day of April, A. D. 1873.

Recorded May 26, 1873.

E. C. MIDDLETON.
JAMES F. WINCHELL.

Ex'd, H. M. H. E. A. M.

106 *Complainant's Exhibit Stephenson Letter.*

NEW YORK, *Dec.* 5, 1857.

Messrs. J. B. SLAWSON & Co., *New Orleans:*

GENTS: Your favor of Nov. 8 was duly received with check of one hundred and ninety-five dollars, in full, for three sets wheels.

We have delayed writing hoping to have something more definite about the fare-box. One has been placed in the Fifth avenue line as an experiment. We found some little alterations necessary. We believe pennies are not much in use in New Orleans, but here we found they would put six pennies at once into the mouth of the box; these would wedge fast. We were obliged to make the space between the glasses larger at the bottom than at the top, so that anything which entered would be sure to pass through. Another trouble was that the ignorant passengers would put in the box a larger amount than their fare, and then demand the change from the driver. This required the directions to be made more specific. These difficulties being remedied, the box seems to work satisfactory. We have also placed one in a one-horse car recently made by us for the Eighth Avenue Railroad. We had occasion on Thursday, with some gentlemen connected with a railroad in Phila., to examine the operation of this car and fare-box, and found everything satisfactory, and as they are about stocking the new railroad in Phila., and seem inclined to use the one-horse cars, it is quite probable the box may be brought into requisition with them. The Broadway Consolidated Stage Co. have taken no definite action; they seem rather imbecile in the management.

From a persuasion that the box has merit, and will work itself into use if it can be fairly bro't before the public, I have said to the
107 proprietors of the Fifth avenue line that if they would adopt the box, and put it in use in good faith, that no charge would be made for patent. We so understood Mr. Slawson, and we think this the correct policy. We find the boxes we have made of which Hart, Thomas & Co. have some, cost about $10. We suppose another lot might be made at about $9. The lock, with the sheet-iron draw, cost $4.50. You reminded us that these boxes should be marked patent, &c.

Please advise us how you would like to have them marked.

Resp'y,

JOHN STEPHENSON.

108 *Complainant's Exhibit Stephenson Letter No. 2.*

NEW YORK, *April* 5, 1858.

Mess. J. B. SLAWSON & Co., *New Orleans:*

GENTS: Your favor of 23 March was duly received, with check for one hundred and five $\frac{5\,0}{1\,0\,0}$ dollars, for invoice 12 March. The Rodriguez remittance has not yet come to hand.

We have deferred writing for a few days, hoping to send you one of Rodgers' fare-boxes, but he has none yet completed. They are to be of cast-iron chiefly. We understand the essentials of his plan thus:

Over the mouth, where the money is deposited, is a lid, which the passenger is expected to lift up in order to deposit his fare. The lifting up of the lid rings a bell, which is intended to inform the driver that the fare is paid. The money or ticket drops between two glasses, approximating at the bottom; a "pull," moved by the driver, causes the glasses to separate, and permits the money to drop into the drawer. The driver has
109 also a means of ringing the bell, in order to call the passengers "to come up to the captain's office and settle." These are the chief features of the box, being chiefly modifications, or additions, seemingly

designed to evade the previous patent. The lifting of the lid by the passengers is an inconvenience, and the ringing of the bell is of no value, but complicates the machine, and subjects it to disorder. We understand that Rodgers is preparing fifty of these boxes for the Fourth av. line, belonging to the Consolidated Co. It seems now quite probable that the fare-box, in some form, will be introduced pretty generally; and we are inclined to think the best way will be to take no notice of the proceedings for the present, but let them work into general use, if such should be the result, and then you will be in a situation to make more out of it. All the parties at interest know that you have a patent for your fare-box, and whether the box of Rodgers is essentially the same, will be, perhaps, a legal question. As soon as we can get hold of one of the boxes, we will send it to you.

Before your last letter was received we had taken the liberty to send two boxes, properly placed in new omnibuses, to San Francisco. The person ordering left it optional with us, and we thought it a favorable opportunity to introduce it to notice in that place. We understand that Rodgers is to furnish the first fifty at ten dollars each, being the simple cost of manufacturing. Of this, however, we have no definite information.

Resp'y,

JOHN STEPHENSON.

110 *Complainant's Exhibit Stephenson Letter No. 3.*

NEW YORK, *May* 21, 1858.

Mess. J. B. SLAWSON & Co.,
New Orleans:

GENTS: Your favor of the 14th inst. is at hand. We shall send you by steamer, 27 inst., the varnish and 5 or 6 sets of wheel-boxes. The poles are in hand and will be forwarded soon. Your favor of 5 April was received (we thought we had already acknowledged it) and the notice served on Mr. Rodgers immediately by our Mr. Delamater. Mr. Rodgers called next day to ascertain about your responsibility, &c., as he said he might be damaged by your intimidating persons from using his lawful invention. We satisfied him on that score. We have lately been inclined to think, and now respectfully make the suggestion, that it may be for your interest to buy Rodgers' patent, for the following reasons:

1. It has a bell affixed to the lid covering the mouth-piece, which advises the driver when money is placed in the box. 2. The fare being held between two pieces of glass touching each other at the bottom, the coin does not drop clear down to the bottom, but seems suspended so that the entire circle of the coin is visible and, consequently, more distinct. 3. There is no "wedging" of pennies, as is sometimes the case with the Slawson box.

This we partially remedied by making the two vertical glasses a little wider at the bottom than at the top, so that whatever entered the mouth-piece would necessarily pass through. But this produced another evil; a 3-cent piece is so small that when the glasses are widened at bottom it will fall crosswise, almost horizontal, and consequently not be plainly visible. 4. A little knob or hammer is convenient to the driver by which

he can ring the bell to call passengers to pay, which is preferred to the present mode of thumping on the roof. It is true some of these fixtures as made by Rodgers are frail, and will be troublesome, but this seems not yet appreciated. But the chief argument in my mind for making
111 the suggestion is this: Rodgers is making an iron box for $10, which includes patent; this box is worth all that he charges for it, exclusive of patent. Consequently, this patent is worth nothing to him other than to secure the monopoly of manufacture. If therefore Mr. R.'s box will be preferred, and he can make a proper box, substantial, and according to any determined plan, and at price affording him simply manufacturer's profits all his desire will be accomplished. We are, therefore, inclined to think Mr. Rodgers would, for a small consideration, assign his patent, which would probably be both better and more economical than to spend money at law.

We took the liberty of making such suggestion to Mr. Rodgers which he did not receive unfavorably, and said he would think of it. We have requested him to prepare a box, and we will forward it to you with any suggestions or propositions he may have.

As before remarked, the box of Rodgers is now working into favor. The 4' av. line has commenced to use it.

We are now building seven cars (one-horse) for the 8' av. line (they have one of your boxes made by us, the operation of which they are much pleased with), but they have ordered boxes from Rodgers. We are also making similar cars for railroad in Boston, and they have ordered boxes from Rodgers.

We place these facts before you with also the assurance and hope that you will not hesitate to use us in any way we can promote your interest.

We regret that we have not been able to send you a box from Rodgers, but though we have been importunate have not yet succeeded. We have the promise of one completed shortly. We should have mentioned that Mr. R. is about fixing a second mouth-piece by which the fare from the outside can be deposited from the outside. This may or may not be used as desired.

Resp'y,

JOHN STEPHENSON.

112 *Complainant's Exhibit Delamater No. 1.*

NEW YORK, *July 2nd*, 1855.

James Rodgers bought of John Stephenson:

1 lighted money-box	$2 00
1 inside Walker's safety lamp	1 25
	$3 25

1 register panel (to be returned).

Complainant's Exhibit Delamater No. 2.

NEW YORK, *July 6th*, 1858.

Mr. John Stephenson to James Rodgers, Dr., 421 Broadway.

Jan'y 18.	To one patent stage register	$30 00
Feb. 19.	" one " " without panel	25 00

May 13.	"	one money-box & lamp				14 00
27.	"	7	"	"	" 8th avenue	98 00
	"	3	"	"	" Boston	42 00
	"	1	"	"	" St. Louis	14 00
						$223 00
Cr. by bill rendered						6 50
						$216 50

Rec'd pay't by his note at 6 mo's.

JAMES RODGERS.

113 *Exhibit Reeves Patent.*

DEPARTMENT OF THE INTERIOR.

United States Patent Office to all persons to whom these presents shall come, greeting:

This is to certify that the annexed is a true copy from the records of this office of the letters patent granted J. B. Slawson, February 23d, 1858, No. 19471, for improved omnibus-fare box.

In testimony whereof I, W. H. Doolittle, Acting Commissioner of Patents, have caused the seal of the Patent Office to be hereunto affixed this third day of April, in the year of our Lord one thousand eight hundred and seventy-nine, and of the Independence of the United States the one hundred and third.

[SEAL.]

W. H. DOOLITTLE,
Acting Commissioner.

No. 19471.

United States of America to all to whom these letters patent shall come

Whereas Israel S. Reeves, of New Orleans, La., has alleged that he has invented a new and useful improved omnibus-fare box (he having assigned his right, title, and interest in said box to J. B. Slawson of said New
114 Orleans), which, he states, has not been known or used before his application; has made oath that he is a citizen of the United States; that he does verily believe that he is the original and first inventor or discoverer of the said box, and that the same hath not, to the best of his knowledge and belief, been previously known or used; has paid into the Treasury of the United States the sum of thirty dollars, and presented a petition to the Commissioner of Patents signifying a desire of obtaining an exclusive property in the said box, and praying that a patent may be granted for that purpose.

These are, therefore, to grant, according to law, to the said J. B. Slawson, his heirs, administrators, or assigns, for the term of fourteen years from the twenty-third day of February, one thousand eight hundred and fifty-eight, the full and exclusive right and liberty of making, constructing, using, and vending to others to be used, the said box, a description whereof is given in the words of the said Israel S. Reeves, in the schedule hereunto annexed, and is made part of these presents.

In testimony whereof, I have caused these letters to be made patent, and the seal of the Patent Office has been hereunto affixed.

Given under my hand, at the city of Washington, this twenty-third day of February, in the year of our Lord one thousand eight hundred and fifty-eight, and of the Independence of the United States of America the eighty-second.

JACOB THOMPSON,
Secretary of the Interior.

Countersigned and sealed with the seal of the Patent Office.
[SEAL.] J. HOLT,
Commissioner of Patents.

115 The schedule referred to in these letters patent, and making part of the same.

To all whom it may concern:

Be it known that I, Israel S. Reeves, of the city of New Orleans, parish of Orleans, State of Louisiana, have made a new and useful improvement in boxes in which passen*sen*gers put their fare in omnibuses; and I hereby declare the following is a full and exact description thereof, reference being had to the accompanying drawings, and to the letters of reference marked thereon, making a part of this specification, the same letters used in designating the same parts as shown by the different figures.

The usual mode of taking the fare by the driver, where all the funds received is put in a box which he has access to continuous, and the amount of fare received depending on his honesty to account for, has been supposed to drain largely on the proprietor, there being heretofore no positive means of knowing the amount received as fare.

In the application of this improvement, as the entire receiver of all the fare, either tickets or coin, the system of collecting fare is so changed as to have tangible evidence of the numbers of fares paid, all fare being put in this box by the passengers, and it not being accessible, only the person who carries the key of it (and whose duty is to keep the drivers regulated at the end of their route, as regards the time of starting, supplying them with tickets, and small coin to make change as they require it) can have access to the box—this person which I will call the starter.

The driver has a box in which he keeps tickets for sale by the package, and small coin to make change, which is furnished him by the starter, and who charges him with the same. Suppose the number of packages is ten, and the value of each sixty cents, the driver, on this account, is responsible for six dollars; and, with this, he receives five dollars in small coin, makes the amount eleven dollars, which, as he is made responsible for, his own property. He puts this in his box, and is the vender of
116 tickets by the package, and a maker of change, so those that require it can pay their fare. When he exchanges money, say one-half dollar, he hands back to the passenger the same value in small coin, so the fare can be paid. This changing does not add or diminish his five dollars. When he sells tickets, the amount received he puts in his box, instead of the tickets sold. This selling keeps his six dollars of same value, and, as additions in tickets is required, he hands the starter the value of those sold,

and receives more in their place. The same when his small coin is exhausted, the starter gives him this for the money he has taken in changing.

This improved box is attached to the front part of the omnibus, near the driver, but in the inside, so the passengers can put their fare in, and the driver can see this done; also, detect errors made; it being his duty to see the fare is paid when a passenger gets in, before starting. The general arrangement of the operation can be more satisfactorily explained by reference to the respective figures.

Figure 1, sectional side view.—The dividing line at (*z*), as seen by figures 2 and 3; the parts marked (*h*) are parts of the box, being the frame of the same; (*a*) the opening in which the fare is put, the same falls into the chamber (*b*); this chamber has glass sides, seen by (*i*) and (*f*), through which the fare can be examined, to know its correctness, before allowed to pass into the drawer (*d*) through the opening (*c*)—(*m*) a movable table, which is the base of the chamber (*b*), actuated on by the spring (*o*) to hold the end of (*m*) against the glass plate (*f*)—(*p*) angular table permanently situated, one end of which makes the side of the opening (*c*) in (*p*) is placed the spring (*o*) to move (*m*) which is guided by the ledges (*n*) so (*m*) can move on (*p*) as a sliding lid; (*x*) a strap attached to (*m*), by which the driver can draw (*m*) back, and open the communication from (*b*) to the drawer, for the fare to pass the glass plates (*i* and *f*) which form the sides of the chamber (*b*), together with the sliding receiving table (*m*) are so arranged, in connection with each other, as to support or retain the
117 piece of money deposited in it in an upright position—that is to say, on its edge, so as to be easily distinguished, either by the driver or passenger depositing it, thereby preventing mistakes; and which, also, from its position, enables the driver effectually to deposit it in the box by simply withdrawing the sliding table (*m*) from under it, as it cannot possibly accompany the latter in its movement because of the resistance of the inner glass side.

On the drawer I have two locks, one a common drawer-lock, and over this a plate having mortises to go over the small eye-bolts attached to the plate of the inside lock, so a second lock can be placed; this being no part of the novelty, and discretionary in the application.

Fig. 2. Top view, showing the general arrangement.—In this view the plate (*f*) is not seen, as it is concealed by the frame of the box, (*i*) is seen, top and side, as standing in an angular position, (*a*) the opening to put in fare, (*h*) the frame of the box, (*m*) movable table, mounted on (P) and retained in position by ledges (*n*) (X) strap, by which the driver moves (*m*)—(V) a groove made on the top of the box, also shown in Fig. 1, for the purpose of placing a card with letters on, "Pay fare in this box," as seen above, Fig. 3, so the passengers can know where their fare has to be put; and that the driver receives no fare.

Fig. 3. This is a front view, showing only the appearance of the box as I construct it; the glass plate (*f*) seen front view, the same letters shown here, indicating the same parts already referred to in the foregoing figures.

Having thus described my invention, what I claim as new, and desire to secure by letters patent, is the glass plates (*i* and *f*), as arranged in con-

nection with the sliding table (*m*), the whole being operated in the manner substantially as and for the purpose set forth.

I. S. REEVES.

Signed in presents of—
C. M. BRADFORD.
E. CANNON.

(Here follows diagram marked page 118.)

119 *Complainant's Exhibit Rodgers' Application.*

DEPARTMENT OF THE INTERIOR.

United States Patent Office to all persons to whom these presents shall come, greeting:

This is to certify that the annexed is a true copy from the files of this office of the file-wrapper and contents in the matter of the letters patent granted James Rodgers, February 23, 1858, No. 19446, for improvement in boxes for receiving money in cars, stages, &c.

In testimony whereof I, W. H. Doolittle, Acting Commissioner of Patents, have caused the seal of the Patent Office to be hereunto affixed, this twenty-first day of January, in the year of our Lord one thousand eight hundred and seventy-nine, and of the Independence of the United States the one hundred and third.

[SEAL.] W. H. DOOLITTLE,
Acting Commissioner.

To the honorable Joseph Holt, Commissioner of Patents of the United States:

The petition of James Rodgers, of the city, county, and State of New York, respectfully represents—

That your petitioner has invented certain new and useful improvements in money-boxes for stages, cars, and other purposes, which he verily believes have not been known or used prior to the invention thereof by your petitioner.

120 He therefore prays that letters patent of the United States may be granted to him therefor, vesting in him and his legal representatives the exclusive right to the same, agreeably to the act of Congress in that case made and provided, he having paid thirty dollars into the Treasury, and otherwise complied with the requirements of the said act.

City of New York, Jan. 30th, 1858.

Respectfully yours,

JAMES RODGERS,
421 *Broadway N. Y.*

(Informal—but chf. cl'k says "Send to examiner."—A. L. GAGE.)

UNITED STATES OF AMERICA,
City, County, and State of New York, ss:

On this thirtieth day of January, in the year one thousand eight hundred and fifty-eight, before the subscriber, a commissioner of deeds in

and for the said city of New York, personally appeared the within-named James Rodgers and made solemn oath that he verily believes himself to be the original and first inventor of the within described money-box for stages, cars, and other purposes, and that he does not know or believe that the same was ever before known or used, and that he is a citizen of the United States.

JAMES RODGERS.

Sworn before me the day and year above written.

H. S. LINCOLN,
Commissioner of Deeds.

To all to whom these presents shall come:

Be it known that I, James Rodgers, of the city, county, and
121 State of New York, have invented, made, and applied to use, certain new and useful improvements in boxes for receiving money in stages, cars, &c.; and I do hereby declare that the following is a full, clear, and exact description of the construction and operation of the same; reference being had to the annexed drawing making part of this specification, wherein Fig. 1 is a vertical section centrally of the said money-box, and Fig. 2 is an inverted plan of said box with the bottom removed; similar marks of reference denote the same parts.

A box for receiving passengers' fares in stages, &c., has been invented and patented by J. B. Slawson, July 28th, 1857, in which a hopper, or receptacle of glass, has been used with a slide at the bottom, so that after the money has been placed in said hopper, and the driver sees it to be correct, the slide is withdrawn and the money allowed to drop into a box. In this instance the glass sides forming the hopper are stationary, and if the money becomes clogged at the mouth, in consequence of several pieces lying together, there is no opportunity for the driver readily to rectify the evil. My invention therefore does not consist in the use of a glass-sided hopper and drawer, but my invention relates to the construction of a glass-sided hopper with one side movable, so as to act to close the orifice to the money-box, and also to relieve any money that might be jammed between said glasses by the one side moving away from the same and permitting the money to fall into the drawer.

In connection with this glass-sided hopper or receptacle, I make use of a cover, applied in such a manner as to strike a bell when the passenger raises said cover to place his fare in said hopper, thereby attracting the driver's attention; and, in connection with the same bell, I apply a slide and latch that can be operated by the driver, to call the attention of passengers to the payment of their fares.

In the drawing, *a a* is a box of suitable size or shape, which, on stages, should be located at the left side of the driver, and pass into the front part of the light or cupola on the stage top; *b* is a draw' for receiving the
122 money, which should be provided with a suitable lock, so that it can only be opened by the proper person; and the driver should be provided with a separate box, out of which to make change for passengers who may not have the correct amount. On the box is an inclined glass, *c*, which is a fixture, and *d* is another glass to protect the parts from any rain; *e* is a cover, hinged as at 1 1, and hanging down against the upper edge of the glass *c*; *f* is another glass set in grooves in the sides of

the box *a*, and sustained by a frame, 2, at its lower edge; 3 is a bar connected to said frame 2, and passing out with an eye or handle, 4; 5 5 are springs that tend to draw the lower edge of the glass *f* towards the lower edge of the glass *c*. The operation of this part is as follows: When the passengers insert their fare between the glasses *c* and *f*, the same is retained until the driver, looking through the glasses, sees that the amount is correct, and on pulling the eye 4, draws the glass *f* back, allowing the money to fall into the draw' *b*.

On the cover *e* is an arm, 6, with a connecting rod to a slide, 7; and 8 is a spring to draw said slide back; *g* is a bell secured on the inside of the box; *h* is the hammer of said bell, on the pin *i*, propelled by the spring *k*, and arrested in its movements by the pin 9; *l* is an arm from the hammer *h*, acted on by a spring-dog, 10, so that as the cover *e* is raised for the insertion of money into the hopper the bell is struck to attract the driver's attention.

If passengers do not pay their fare at the proper time the driver calls their attention by ringing the bell *g*, by a slide, *m*, and dog 11, acting on an arm, 12, from the hammer *h*, moved by the handle *n*.

By my improved money-box the driver's attention is called when money is placed in the receptacle; the driver and passengers can see that the amount is correct; the driver can then drop said money into the draw', and when the driver is ready to collect the fare he has the means under his command of calling attention by the bell. My apparatus is cheap, durable, efficient, not liable to become clogged, and is an effectual check upon drivers, conductors, or others committing frauds upon the proprietors.

123 I do not claim a glass receptable to receive money to be deposited in a drawer beneath, but—

What I claim as my invention and desire to secure by letters-patent is the movable glass side *f*, to the receptacle or hopper kept at the bottom to the fixed glass, *c*, by springs or their equivalents, and acting in the manner and for the purposes specified.

I also claim connecting the cover *e* of the money receptable to a bell for the purpose of attracting the driver's attention when money is placed in said receptacle as specified.

I also claim in combination with said bell connected to the cover of the money receptacle, the slide *m*, and dog, 11, to call attention of passengers to the payment of their fares, as specified.

In witness whereof I have hereunto set my signature this thirtieth day of January, 1858.

JAMES RODGERS.

Witnesses:
LEMUEL W. SERRELL.
THOMAS G. HAROLD.

NEW YORK, *Feb.* 22*nd*, 1858.

SIR: Herein you will receive the specification of J. Rodgers' money-box for stages, &c., with the second witness to the specification, which was accidentally omitted. The case is now ready for issue, as per official letter of 2d ins.

Respectfully yours,

LEMUEL W. SERRELL.

Hon. JOSEPH HOLT.

124 NEW YORK, *Feb'y* 19, 1858.

Hon'ble J. HOLT,
Commissioner of Patents:

DEAR SIR: When you have my patent for improved money-boxes issued direct it to my address, at 421 Broadway.

Yours, very respectfully,

JAMES RODGERS.

When you have the Patent Office report for 1857 ready please send me a copy.

35. No. 19446. 76.

JAMES RODGERS.

Of New York.
County of "
State of "

Register for stages, cars, &c.

Rec'd	Feb. 5, 1858.
Petition	" " "
Affidavit	" " "
Specification	" " "
2 drawings	" " "
Model	" " "
Cert. dep	" " "
1 cash $30	Feb. 5, 1858.
Examined Feb. 8, '58	T. R. Peale.
2 issue—Shugert	Feb. 9, 1858.
4 patented	Feb. 23, 1858.

Recorded vol. 84, page 432.

R. 421 Broadway, New York.

Spec'n returned for a 2d witness. Feb. 20, '58. H. McC.

Improvement in boxes for receiving money in cars, stages, &c.

125 *Complainant's Exhibit Rodgers Patent.*

The United States Patent Office to all persons to whom these presents shall come, greeting:

This is to certify that the annexed is a true copy from the records of this office of letters patent issued to James Rodgers on the twenty-third day of February, eighteen hundred and fifty-eight.

In testimony whereof I, Joseph Holt, Commissioner of Patents, have caused the seal of the Patent Office to be hereunto affixed this twenty-third day of March, in the year of our Lord one thousand eight hundred and fifty-eight, and of the Independence of the United States the eighty-second.

[SEAL.] J. HOLT.

No. 19446.

The United States of America to all to whom these letters patent shall come:

Whereas James Rodgers, of New York, N. Y., has alleged that he has invented a new and useful improvement in boxes for receiving money in carriages, &c., which, he states, has not been known or used before his application; has made oath that he is a citizen of the United States; that he does verily believe that he is the original and first inventor or discoverer of the said improvement, and that the same hath not, to the best of his knowledge and belief, been previously known or used; has
126 paid into the Treasury of the United States the sum of thirty dollars, and presented a petition to the Commissioner of Patents signifying a desire of obtaining an exclusive property in the said improvement, and praying that a patent may be granted for that purpose:

These are, therefore, to grant, according to law, to the said James Rodgers, his heirs, administrators, or assigns, for the term of fourteen years from the twenty-third day of February, one thousand eight hundred and fifty-eight, the full and exclusive right and liberty of making, constructing, using, and vending to others to be used, the said improvement, a description whereof is given in the words of the said James Rodgers, in the schedule hereunto annexed, and is made part of these presents.

In testimony whereof I have caused these letters to be made patent, and the seal of the Patent Office has been hereunto affixed. Given under my hand, at the city of Washington, this twenty-third day of February, in the year of our Lord one thousand eight hundred and fifty-eight, and of the Independence of the United States of America the eighty-second.

JACOB THOMPSON,
Secretary of the Interior.

Countersigned and sealed with the seal of the Patent Office.
[SEAL.]
J. HOLT,
Commissioner of Patents.

The schedule referred to in these letters patent and making part of the same.

To all to whom these presents shall come:

Be it known that I, James Rodgers, of the city, county, and State of New York, have invented, made, and applied to use, certain new
127 and useful improvements in boxes for receiving money in stages, cars, &c.; and I do hereby declare that the following is a full, clear, and exact description of the construction and operation of the same, reference being had to the annexed drawing, making part of this specification, wherein Fig. 1 is a vertical section centrally of the said money-box, and Fig. 2 is an inverted plan of said box, with the bottom removed; similar marks of reference denote the same parts.

A box for receiving passengers' fares in stages, &c., has been invented and patented by J. B. Slawson July 28th, 1857, in which a hopper or receptacle of glass has been used with a slide at the bottom so that after the money has been placed in said hopper, and the driver sees it to be correct,

the slide is withdrawn and the money allowed to drop into a box. In this instance the glass sides forming the hopper are stationary, and if the money becomes clogged at the mouth, in consequence of several pieces lying together, there is an [sic] opportunity for the driver readily to rectify the evil. My invention therefor does not consist in the use of a glass-sided hopper and drawer, but my invention relates to the construction of a glass-sided hopper with one side movable so as to act to close the orifice to the money-box, and also to relieve any money that might be jammed between said glass', by the one side moving away from the same and permitting the money to fall into the drawer.

In connection with the glass-sided hopper or receptacle I make use of a cover applied in such a manner as to strike a bell when the passenger raises said cover to place his fare in said hopper, thereby attracting the driver's attention; and, in connection with the same bell, I apply a slide and latch that can be operated by the driver, to call the attention of passengers to the payment of their fares.

In the drawing, *a a* is a box of any suitable size or shape, which, on stages, should be located at the left side of the driver, and pass into the front part of the light or cupola on the stage top; *b* is a draw' for receiving the money, which should be provided with a suitable lock, so
128 that it can only be opened by the proper person; and the driver should be provided with a separate box, out of which to make change for passengers who may not have the correct amount. On the box is an inclined glass, *c*, which is a fixture, and *d* is another glass to protect the parts from any rain; *e* is a cover, hinged as at 11, and hanging down against the upper edge of the glass *c*; *f* is another glass set in grooves in the sides of the box *a*, and sustained by a frame, 2, at its lower edge; 3 is a bar connected to said frame 2, and passing out with an eye or handle, 4; 5 5 are springs that tend to draw the lower edge of the glass *f* towards the lower edge of the glass *c*. The operation of this part is as follows:

When the passengers insert their fare between the glasses *c* and *f*, the same is retained until the driver, looking through the glasses, sees that the amount is correct, and on pulling the eye 4, draws the glass *f* back, allowing the money to fall into the draw' *b*.

On the cover *e* is an arm, 6, with a connecting rod to a slide, 7, and 8 is a spring to draw said slide back; *g* is a bell secured on the inside of the box; *h* is the hammer of said bell on the pin *i*, propelled by the spring *k*, and arrested in its movements by the pin 1; *l* is an arm from the hammer *h*, acted on by a spring-dog, 10, so that as the cover *e* is raised for the insertion of money into the hopper the bell is struck to attract the driver's attention.

If passengers do not pay their fare at the proper time the driver calls their attention by ringing the bell *g* by a slide, *m*, and dog 11, acting on an arm, 12, from the hammer *h*, moved by the handle *n*.

By my improved money-box the driver's attention is called when money is placed in the receptacle; the driver and passengers can see that the amount is correct. The driver can then drop said money into the draw', and when the driver is ready to collect the fare he has the means under his command of calling attention by the bell. My apparatus is cheap, durable, efficient, not liable to become clogged, and is an effectual check upon drivers, conductors, or others committing frauds upon the proprietors.

I do not claim a glass receptable to receive money to be deposited in a draw beneath, but—

129 What I claim as my invention and desire to secure by letters patent is the movable glass side *f* to the receptacle or hopper, kept at the bottom to the fixed glass *c* by springs or their equivalents, and acting in the manner and for the purposes specified.

I also claim connecting the cover *e* of the money receptacle to a bell, for the purpose of attracting the driver's attention when money is placed in said receptacle as specified.

I also claim, in combination with said bell, connected to the cover of the money receptacle, the slide *m* and dog 11, to call attention of passengers to the payment of their fares, as specified.

In witness whereof I have hereunto set my signature this thirteenth day of January, 1858.

JAMES RODGERS.

Witnesses:

LEMUEL W. SERRELL.
THOMAS G. HAROLD.

(Here follows diagram, marked page 130.)

131 *Exhibit Rodgers No. 1.*

Whereas I, James Rodgers, of the city of New York, in the county and State of New York, did obtain letters patent of the United States for certain improvements in money-boxes, which letters patent bear date the twenty-third day of February, 1858; and whereas J. B. Slawson, of New Orleans, La., is desirous of acquiring all the interest therein: Now, this indenture witnesseth that, for and in consideration of the sum of two hundred dollars to me in hand paid, the receipt of which is hereby acknowledged, I have assigned, sold, and set over, and do hereby assign, sell, and set over unto the said J. B. Slawson all the right, title, and interest which I have in the said invention, as secured to me by said letters patent, the same to be held and enjoyed by the said J. B. Slawson for his own use and behoof and for the use and behoof of his legal representatives, to the full end and term for which said letters patent are or may be granted, as fully and entirely as the same would have been held and enjoyed by me had this assignment and sale not been made.

In testimony whereof I hereunto set my hand and affix my seal this this eighteenth day of August, 1858.

JAMES RODGERS.

Sealed and delivered in presence of—

ANTHONY RODGERS.
RHINALDO M. WATERS.

UNITED STATES PATENT OFFICE.

Received August 28, 1858, and recorded in liber X[4], page 95, of Transfers of Patents.

In testimony whereof I have caused the seal of the Patent Office to be hereunto affixed.

[SEAL.]

J. HOLTT,
Comm'r of Patents.

132 *Exhibit Rodgers No. 2.*

NEW YORK, *Aug.* 18, 1858.

The following is the number of fare-boxes made by me and how disposed of:

Consolidated Stage Co'y	48
John Stephenson	13
Sent to Philadelphia to Mr. McBride	1
On hand in my shop	24
Total	86

The twenty-four boxes in my shop I agree not to dispose of without the consent of J. B. Slawson first had in writing, to whom I have sold all my right of patent for said fare-boxes, as per assi'nment of this date made to him.

EVIDENCE FOR THE DEFENDANT.

DECEMBER 24TH, 1878.

WILLIAM H. ROGERS, called for defendant and sworn, deposes and says:

Q. 1. Where do you reside?

A. In Brooklyn.

Q. 2. What is your business?

A. Mechanical engineer.

Q. 3. How long have you known fare-boxes used in cars and stages?

133 (Counsel objects to the introduction of any testimony tending to show anticipation of either of the inventions in controversy, on the ground that notice of the witness's name, his residence, and the place where he had knowledge of either of said inventions has not been set up in the answer.

Question withdrawn.)

Q. 4. How old are you?

A. About 53 or 54.

Q. 5. How long has your attention been called to mechanical appliances?

A. About 40 years.

Q. 6. Have you, during that time, noticed the effect of a lighted lamp upon glass?

(Objected to as irrelevant and immaterial.)

A. Yes, sir; 35 years ago.

Q. 7. Are you sure that at night a lighted lamp will shine through glass?

(Same objection.)

Q. 8. Is the result of your experience that at night a lighted lamp will shine through glass?

A. Certainly.

Q. 9. The effect of that will depend, will it not, on the brilliancy of the light and the transparency of the glass?

(Same objection.)

A. Certainly.

Q. 10. Isn't that use of glass for the purpose of light a very old one?
(Same objection.
A. I should judge so.
134 Q. 11. How long has glass been used in lanterns and lamps for the purpose of transferring the light from one side of the glass to the other?
(Same objection.)
A. Been used as long as I can remember; don't know how long before that.

Adjourned.

FEBRUARY 1ST, 1879.

Hearing resumed. Same appearances.

Examination of WM. H. ROGERS resumed.

Q. 12. Is your father living, or dead?
A. He is dead.
Q. 13. When did he die?
A. July 9th, 1877.
Q. 14. Where did he live at the time of his death.
A. 154 E. 37th st., New York City.
Q. 15. What was his business?
A. Clock making and mechanical engineering; making models of all kinds.
Q. 16. Have you seen any fare-boxes such as are used in cars for taking fares?
A. Yes, sir.
Q. 17. How long ago?
A. About 1853.
Q. 18. Where did you see them?
A. In my father's place of business, where I was engaged.
Q. 19. Anywhere else?
A. I think I saw them in Mr. Stephenson's place; John Stephenson's.
Q. 20. In what year.
135 A. I think it was shortly after I saw them in my father's place.
Q. 21. When and where do you first recollect seeing them in use?
A. I cannot say exactly, but it was after that time they were used in a stage line across the city.
Q. 22. Can you recollect what line and what route?
A. I cannot. I think it was called the Red Bird line; am not positive.
Q. 23. What was it you saw in the Red Bird line?
A. It was a box something similar to the one on the table, but I think it was made of cast-iron; something similar but not the same shape; the same principle.
Q. 24. Is that box, Exhibit No. 1, made by your father?
A. Yes, sir; that box my father made.
Q. 25. Did he make any other or different after that?
A. Yes, sir; shortly after that one.
Q. 26. Do you know what he did with them?

A. I cannot say. I only heard that he sold it to Mr. Slawson; that is, the boxes and stuff he had in the shop, boxes and keys and things, for about $600.

Q. 27. Did you ever see Mr. Slawson around your father's shop.

A. No, sir; not to know him. I was always in the factory, not in the office.

Q. 28. Have you seen Mr. Slawson's patent box?

A. Yes, sir.

Q. 29. Do you notice any difference in the principle of action?

A. No, sir; they are about the same, I should judge.

Q. 30. When did you go to Philadelphia?

A. In 1854; staid there 18 months.

136 Q. 31. When you came back, did you see any of them in operation after that?

A. No, sir. When I came back I heard of the sale, and paid no attention to them.

Q. 32. Did you see any such in Philadelphia?

A. No, sir; I was putting on index registers on the line in Spruce street.

Q. 33. The boxes which you saw on the Red Bird line, the stage line, was before you went to Philadelphia?

A. It might have been after I returned; cannot say as to that.

Q. 34. Now, the action; have you ever noticed the action of Mr. Slawson's patent boxes; how is the money fan dropped?

A. Dropped on a platform.

Q. 35. How is it on this box, Exhibit No. 2?

A. Dropped on the——

Q. 36. Well, is the principle the same as in Mr. Slawson's?

(Objected to as leading.)

Q. 37. Well, what is the difference, if any, as to the dropping and stopping of the money in the two?

A. I don't see any difference; it retains the money till it is seen through the glasses, and then deposited by means of the slide.

Q. 38. I want to draw out of you by question, and the question is this: Is the deposit of the money in the box Exhibit No. 2, the retention thereof for examination, and the discharge from the platform into the lower part of the box by slide, the same or different between your father's box and Slawson's box?

A. It is the same; for the same purpose; answers the same purpose.

Q. 39. If there is any difference, please explain the difference.

137 A. One receives the money flat on the platform, the other upright; that is all the difference. It is easier to discern the money in this exhibit than in Mr. Slawson's.

Q. 40. Was or was not that owing to the position in which the box was laid or placed?

A. Yes, sir; this exhibit was built more for stage lines.

Q. 41. Did you ever notice if the boxes were lighted at night?

A. Yes, sir.

Q. 42. When did you first see a fare-box lighted at night by artificial light?

A. In my father's place.

Q. 43. How was it lighted?

A. By a lamp sitting in front of it, throwing the reflection through the glass on the money. The shape was made so the people in the stage could see the money, and the driver could see down.

Q. 44. How long ago had you seen a fare-box in a railroad car lighted by artificial light at night?

A. I guess it must be about 12 or 15 years ago; cannot say exactly.

Q. 45. Name some time you can be sure of.

A. I cannot say. I think it was some time after—but not a great while after—father told me he had sold these traps and things to Mr. Slawson. It was after that some time; how long I cannot say.

Cross-examined by Mr. REILLY:

X Q. 46. How long have you been a mechanical engineer?

A. Since I was 14 years old; and I am 53 now.

X Q. 47. Do you mean to say you were a mechanical engineer at the age of 14?

A. Yes, sir.

X Q. 48. When did you commence to learn mechanical engineering?

A. When I was 7 or 8 years old.

138 X Q. 49. How long were you studying mechanical engineering?

A. All my life.

X Q. 50. Did you ever go to school between 7 and 14?

A. Yes, sir; Mechanics' Institute school.

X Q. 51. What was taught in that institute?

A. I cannot tell you now, for I haven't one of the circulars.

X Q. 52. What were you taught there?

A. I was taught everything necessary to make a mechanic of me.

X Q. 53. And what was taught you for that object?

A. The general rudiments that are taught in a school of that kind to fit young men out.

X Q. 54. Did you get a diploma?

A. No, sir; they didn't give any at the time.

X Q. 55. Did you follow the full course?

A. I don't know how to answer that; a full course might involve a good many things I didn't study.

X Q. 56. Where was that school located?

A. Corner of Elm and Canal st.

X Q. 57. Who was the principal?

A. I can't remember the name now.

X Q. 58. In what year did you enter?

A. I cannot exactly say; can find it out.

X Q. 59. In what year did you leave?

A. That I couldn't tell you.

X Q. 60. Was that the only school you ever attended?

A. That is all I remember of school.

X Q. 61. How many years did you stay?

A. Could not tell you.

X Q. 62. Where were you living when you attended that school?

A. I think in Broadway, 410½, New York.

X Q. 63. After leaving that school what did you do?

139 A. I cannot state; don't know what is meant by that.

X Q. 64. What work did you follow?

A. Mechanical engineering; clock-making.

X Q. 65. For whom?

A. For my father; for myself when I got a chance.

X Q. 66. Did you get mechanical engineers' wages?

A. I don't know what mechanical engineers' wages was in those days.

X Q. 67. How long did you remain with your father?

A. Till he died; except when I went to Philadelphia for 18 months, and other intervals.

X Q. 68. In what year did you go to Philadelphia?

A. In January, 1854.

X Q. 69. How do you fix that date?

A. I started business there.

X Q. 70. What I mean is how do you know it was 1854?

A. I know it was then I started in business; my bills for tools bought from mechanics here, which I have yet, are in 1854. I went to housekeeping, and my first boy was born in Philadelphia.

X Q. 71. When did you see those bills last?

A. Just after the death of my father, when the executors took possession of my father's factory—somewhere near July, 1877; I think I have seen them since; I know I have seen them.

X Q. 72. Will you produce them?

A. If it is necessary.

X Q. 73. It is necessary; will you produce them?

A. Certainly.

X Q. 74. What business did you carry on in Philadelphia?

A. Mechanical engineering; car registers and box, steam-engine registers, stage registers—everything appertaining that way.

140 X Q. 75. In what street?

A. Walnut street, No. 103, near the Exchange.

X Q. 76. When working for your father, what part of the work did you attend to?

A. I done the engineering; giving the work out to the men; seeing the work was properly completed according to the order; inventing when necessary; helping out inventors in their ideas.

X Q. 77. You said you did the engineering; what kind of work was that?

A. Planning out work, drafting it, and laying it out.

X Q. 78. Was your father an ingenious man?

A. So the world says; his reputation stood that way.

X Q. 79. In what year did you come back from Philadelphia?

A. In about 18 months from January, 1854.

X Q. 80. I ask the year.

A. It must have been the next year; it would bring it about the middle of 1855.

X Q. 81. May you not have been in Philadelphia more than 18 months?

A. No, sir; I don't think I was.

X Q. 82. Why not?

A. I think I was there about 18 months; it might have been a month less or more.

X Q. 83. Might it not have been 12 months, now?

A. No, sir; I think it was about July, 1855.

X Q. 84. Were you in Walnut street all the time you were there?
A. My business? Yes, sir.
X Q. 85. Who was with you?
A. No one in partnership; had workmen; one was my cousin.
X Q. 86. What was his name?
A. Peter W. Rodgers; he is dead; killed at Antietam.
X Q. 87. How is it you cannot remember the names of your workmen?
141 A. Because I cannot.
X Q. 88. Is your memory good for names?
A. Pretty fair.
X Q. 89. How is it for figures?
A. It is fair.
X Q. 90. How for dates?
A. It is fair for that; never kept my head as a ledger.
X Q. 91. Have you ever been mistaken in names, figures, or dates?
A. Not very often.
X Q. 92. Who told you Mr. Slawson paid $600 for those things?
A. My father.
X Q. 93. You are sure it was $600 he told you?
A. Yes, sir.
X Q. 94. Are you as sure of that as anything else you have testified to?
A. Well, that is what he told me, and that it was like sacrificing them to sell for that.
X Q. 95. (Question repeated.)
A. I am sure he told me.
X Q. 96. Suppose I should show you an assignment signed by your father and Mr. Slawson, in which the sum paid was stated to be $200 instead of $600, what would you say?
(Objected to as immaterial.)
A. I should want to be sure it was my father's signature.
X Q. 97. The question assumes that your father signed the paper—now answer.
A. May be these other traps and things brought $600, besides the assignment; I never heard anything about any assignment.
X Q. 98. Where was your father living at the time he sold?
A. I think in E. 10th street, just above Tompkins park; am
142 not positive whether he had left Broadway or not; he has only lived in three houses that I remember of in his life.
X Q. 99. Where was he living when you returned from Philadelphia?
A. In 10th street, I think.
X Q. 100. The same place you have just mentioned?
A. Yes; he lived in Broadway and 10th street; and, when he died, in 37th street.
X Q. 101. At what time was the sale made to Mr. Slawson?
A. I cannot tell; by referring to his books you will find out.
X Q. 102. About how long after you returned from Philadelphia?
A. I don't know; cannot say.
X Q. 103. Did your father apply for a patent on that box?
A. I never saw him apply for a patent; had nothing to do with his financial business.

X Q. 104. Did he get a patent for that thing?

A. I don't know; I never saw it; I heard so.

X Q. 105. Was it before or after you came from Philadelphia you heard that he had a patent on that box?

A. I think it was before I went, but I am not positive.

X Q. 106. I refer to box marked No. 2; is that the one you mean?

A. It is on the principle of that; they were all iron, and of different shape; they had a drop on, so that when you opened it, it rang a bell.

X Q. 107. Did your father tell you he was going to get a patent?

A. He did not; he kept pretty much all his business to himself.

X Q. 108. Did you make this model No. 2?

A. Yes, sir.

X Q. 109. At whose request?

143 A. At the request of Mr. Wood and another gentleman associated with him; they were both in at the same time.

X Q. 110. When?

A. I can tell you by referring to my books; it was last year, in 1878, I think.

X Q. 111. Why cannot you give the date more accurately?

A. Because I did not look at the date, when I made the box, on my books.

X Q. 112. What did Mr. Wood say he wanted with the box?

A. He didn't say. I told him I thought there was one laying around among the stuff, an old fare-box of father's make, and I would look it up.

X Q. 113. Where is that now, that old box?

A. There it is, Exhibit No. 1.

X Q. 114. When can you swear, that is what year, you first saw a box like Exhibit No. 2?

A. About 1853.

X Q. 115. Can't you come somewhere nearer?

A. If I had the old gentleman's books, I could the very day.

X Q. 116. Where are those books?

A. I think the executors of James Rodgers' estate have them; the estate is not settled yet.

X Q. 117. Why do you think they are in the executors' possession?

A. Because they took everything that was left; it may be they are yet among my stuff; I cannot say.

X Q. 118. What are their names?

A. One is named McKee; I don't know his first name; the other is my sister, Jane Rodgers.

X Q. 119. Did your father leave a will?

A. He did.

X Q. 120. Has it been proved?

A. It has been probated.

X Q. 121. How soon after seeing such boxes with your father did you see them at Mr. Stephenson's?

144 A. I cannot tell; cannot give the time anywhere near; used to go up there with car-registers; my father manufactured them for him.

X Q. 122. How many of those boxes like No. 2 did you see with your father?

A. Cannot say; saw quite a lot of them.

X Q. 123. How will the books show the time when those boxes were constructed?

A. They will show the transactions he had—what he bought to make the boxes with, locks and keys and oil, and all those things.

X Q. 124. Did you take much interest in the matter?

A. Then? No more interest than in other work in the shop.

X Q. 125. About how long after your father got up the box did he commence manufacturing them?

A. That I cannot say; as soon as he gave me the plan we went to work at them.

X Q. 126. How many workmen did he keep?

A. He might have kept a dozen or a dozen and a half; I cannot say.

X Q. 127. Was all the work on those boxes done in the shop?

A. The castings were made in the foundry; the screws were made in Connecticut, I think. I think the keys were made in the brass foundry.

X Q. 128. In whose place were the castings done?

A. I cannot remember; we had castings done in several places at that time.

X Q. 129. How many such boxes did he make?

A. I told you before I could not tell you.

X Q. 130. How long after his manufacturing these boxes did he make the sale to Mr. Slawson?

A. That I don't know.

X Q. 131. Who told you to make this model No. 2?

A. Mr. Wood, as I told you before, and a gentleman that was with him.

X Q. 132. What directions did he give you?

145 A. To make a box like that No. 1, a fac-simile.

X Q. 133. Did you do so?

A. Of course—that is an imitation of that box—I have done so as far as I could.

X Q. 134. Do you swear that No. 2 is a duplicate of No. 1?

A. It is as near as you can get it, unless you come down to very fine points; some wood may be $\frac{1}{32}$ of an inch, or $\frac{1}{64}$, out.

X Q. 135. Is not No. 1 a mutilated, defaced model?

A. It is a little destroyed by age, like myself.

X Q. 136. Who made No. 1?

A. My father.

X Q. 137. Did you see him make it?

A. Yes, sir.

X Q. 138. In what year?

A. I have told you, about 1853, that box might have been made in 1852; it is 1853 that I remember them; it might have been 1852 when that box was made.

X Q. 139. Were you present all the time he was making this box?

A. I don't think I was; had something else to do than watch him; idleness is the root of all evils.

X Q. 140. Then it is not true that you saw your father make that box?

A. I saw him working at it, and saw it when it was completed.

X Q. 141. How do you identify this as the one?

A. We always had it about the shop as being the first box.

X Q. 142. After he made it, what was done with it?

A. That I could not tell you; he took charge of it.

X Q. 143. Where did he put it?

A. I don't know where he put it; it was kept in the shop, most generally in the office, where he kept his models.

X Q. 144. Whereabouts in the office was it?

146 A. I don't know exactly; where the other models were in his own office.

X Q. 145. Were they in a room in the office, or a closet?

A. The office was a room itself, and didn't have a closet; had showcases and desks.

X. Q. 146. How long did he keep this in the office?

A. I don't know.

X Q. 147. How long was it after your father got up this box when he sold such boxes to omnibus companies?

A. The books will tell you that.

X Q. 148. What did your father tell you about this box?

A. Nothing more that I remember; that he was getting up a fare-box.

X Q. 149. When it was finished, what did he say to you?

A. Don't remember the words he said, it is so long ago; we might have had some conversation, but I cannot remember the purport of it.

X Q. 150. What did he say he was going to do with it?

A. I think that he was going to introduce it; am not positive; do not remember the conversation; I should judge he was going to.

X Q. 151. Did he introduce it?

A. I told you it was manufactured before I went away, and I told you about the sale when I came back.

X Q. 152. How many were manufactured?

A. I cannot tell you; I have answered this question two or three times.

X Q. 153. Did you see any of the manufactured boxes before you went away?

A. Yes; I must have been blind not to see them when I worked on them.

X Q. 154. What letters or marks were on those manufactured boxes?

147 A. I don't remember; used to mark the parts when we put them together.

X Q. 155. Was your father's name put on those boxes?

A. I don't know.

X Q. 156. Do you mean that you forget?

A. I don't know.

X Q. 157. On how many of those boxes did you work?

A. I don't know.

X Q. 158. Did you work on 10?

A. I don't know.

X Q. 159. Did you work on 2?

A. I don't know; each man didn't complete a box; each man had his part.

X Q. 160. Can you give us the name of any one man who helped to work on those boxes?

A. Josiah Waldie was one.
X Q. 161. Where is he?
A. Dead.
X Q. 162. When did he die?
A. I don't know; some years ago.
X Q. 163. Where was your father's shop located?
A. In Broadway, New York City.
X Q. 164. Give the number.
A. I think it was 410, am not positive, near Canal st.
X Q. 165. Was that the same place where the box was in the office?
A. Certainly.
X Q. 166. What part of the work on those boxes did you do?
A. A little of this and a little of that; cannot give the details, for I cannot remember.
X Q. 167. Describe the material of which those boxes were composed.
A. Cast iron, wrought iron, sheet iron, cast brass, glass—I think that is the majority of the materials—steel.
X Q. 168. Describe the construction.
148 A. I cannot describe; something similar to that, only not so large; not so long, I mean.
X Q. 169. I ask you, as a mechanical engineer, to describe those boxes.
A. Something similar to the samples.
X Q. 170. I have removed those boxes No. 1 and 2 from your vision; I now ask you to describe the construction in detail of those boxes.
A. A box constructed of 2 pieces of glass with an opening to receive passengers' fare, and held there in that opening for the purpose of being observed by the passengers and the driver; after being observed by the driver he pulls a strap which draws a slide under the money or fare depositd, which immediately deposited it in a draw below, which was locked by the proprietor of the box or owner of the vehicle, it was put in so that the driver could not handle the money.
X Q. 171. Can you tell the name of any person who furnished material for those boxes?
A. I should have to refer to the books; there were so many persons of whom father got materials.
X Q. 172. Were any of those boxes marked patented?
A. I don't remember seeing any name or mark on the box, as I said before.
X Q. 173. Did your father tell you he was to have that box patented?
A. He never told me any of his business.
X Q. 174. Did you' father ever get a patent for that box?
A. I heard so; I don't know it to be a fact.
X Q. 175. Who told you this, and when?
A. I don't know who told me; I know he had a good many patents for other things, in the way of registers for cars.
X Q. 176. How do you know that?
A. I saw them exhibited at a fair of the American Institute to get a premium on them.
149 X Q. 177. Did he exhibit this fare-box at the institute?
A. I never saw it there.
X Q. 178. You didn't see the patents?

A. I saw them marked patented.

Hearing suspended to February 4th, at 11 a. m.

TUESDAY, *February 4th*, 1878—11 a. m.

Cross-examination resumed by Mr. RILLEY:

X Q. 179. Have you brought with you the bills of tools which you said you would bring?

A. I have got some of them; haven't got all; it wasn't necessary to bring them all.

X Q. 180. Please produce what you have.

(Bills produced.)

X Q. 181. How many more bills have you for those tools?

A. I don't know.

X Q. 182. How is it that you have singled out those two?

(Objected to; it didn't appear that he did single them out.)

A. I didn't single them out at all—the first two I came to.

X Q. 183. You said you would bring bills—you have brought instead receipts—why is this?

A. That is enough to prove that I was there that year.

X Q. 184. How many more bills have you, for that matter?

A. I answered that a little while ago—said I didn't know.

150 X Q. 185. Why didn't you bring all the bills on that matter?

A. Because two is sufficient.

X Q. 186. The papers you bring are two receipts—one for 50 dollars, and one for 100 dollars—what were those receipts for?

A. Tools.

X Q. 187. What kind of tools?

A. Edge tools—lathes, appertaining to lathes.

X Q. 188. Did you get those tools before you went to Philadelphia?

A. I ordered them before I went to Philadelphia.

X Q. 189. Have you brought the books of your father?

A. I have not.

X Q. 190. Why not?

A. Because they are not in existence—so I have learned.

X Q. 191. Who told you this?

A. My son.

X Q. 192. When?

A. I think it was Saturday afternoon, about 35 minutes past 5 p. m.—about that, New York time.

X Q. 193. Who put them out of existence?

A. I don't know—they were sold for old paper.

X Q. 194. Who sold them for old paper?

A. I don't know who it was—somebody there—taken round and sold in Ann street.

X Q. 195. Did you ever know an Anthony Rodgers?

A. Yes.

X Q. 196. Who was he?

A. He was a brother of mine.

X Q. 197. Is he living?

A. I don't know.

X Q. 198. When did you last see him?

A. I don't remember.

X Q. 199. About when?

A. Can't say, exactly.

X Q. 200. Where did you last see him?

151 A. He was in the street.

X Q. 201. Had you any difficulty with him?

A. No difficulty as I known of—no great difficulty.

X Q. 202. But you had difficulty with him?

A. Never had any disturbance more than one brother has with another sometimes—some disagreements.

X Q. 203. Have you heard where he is?

A. Not lately.

X Q. 204. When you did hear, where was he?

A. He was in Jersey—that is all I know about it.

X Q. 205. Whereabouts in New Jersey?

A. I don't know.

X Q. 206. What was his occupation?

A. He was a mechanic—called himself a mechanic.

X Q. 207. At what branch did he work?

A. Anything he could do.

X Q. 208. Did he help to make the fare-boxes?

A. I do not know; he might and might not.

X Q. 209. Did you ever know a Rinaldo Waters?

A. No; not to my memory; I might have known a great many Waterses.

X Q. 210. While the boxes were being made, was Anthony Rodgers employed by your father?

A. He was there, I believe.

X Q. 211. What brought you to Philadelphia that time?

A. Ferryboat and locomotive.

X Q. 212. I mean what business brought you there, not what conveyance.

A. I went there in reference to work.

X Q. 213. I know you went there in reference to work, what kind of work?

A. Any kind of work people could give me to do in my line.

X Q. 214. You went there to put up passenger registers, did you not?

A. I put them up after I was there.

152 X Q. 215. What was the object of those registers?

A. To tell how many fares the driver received, so the proprietor could tell whether he had swindled him.

X Q. 216. Why didn't you put up your father's fare-boxes instead of those registers?

A. That was my father's business, not mine, why I didn't.

X Q. 217. But those registers you did put up were patented by your father, were they not?

A. I don't remember.

X Q. 218. Was there a model made for the Patent Office of your father's fare-box?

A. I don't know whether there was or not; I should judge if he got a patent he would have to send a model.

X Q. 219. Don't you know he got a patent for that box?

A. I do not.

X Q. 220. Don't you know that those boxes had a label of white paper giving the date of that patent?

A. I don't know; I answered that before, that I didn't know.

X Q. 221. Where was your father's place when those boxes were made? I want the number.

A. I don't know the exact number now; somewhere between 400 and 425; he was in two places; 410 or 412 and 413; can't tell the number; one above Canal street and one below.

X Q. 222. Was the place where the boxes were manufactured the same place where you saw your father working on the first box?

A. I think it was, but can't say positive.

X Q. 223. What circumstance is there which makes you say that it was about 1853 when your father had the first box?

A. My leaving the city for Philadelphia.

X Q. 224. You left for Philadelphia in January, '54, did you not?

A. I think so.

153 X Q. 225. You were married in January, '54, were you not?

A. No, sir; I said I went to housekeeping then.

X Q. 226. What month in 1854 did you go to Philadelphia?

A. I think it was January.

X Q. 227. What makes you think so?

A. Because it was right after the holidays.

X Q. 228. Then, if your father had the box in 1853, and you went to Philadelphia about January, 1854, not over a year elapsed between your father getting up the box and your going to Philadelphia, is not that so?

A. I don't remember.

X Q. 229. It is not a point of memory, but a question of computation—please answer it.

A. I can't answer what I don't know.

X Q. 230. If, as you say, your father got up the first box about 1853, and you went to Philadelphia in 1854, please tell us the lapse of time that intervened between those two events.

A. I don't remember the lapse of time.

X Q. 231. If your father got up the box in January, '53, and you went to Philadelphia in January, '54, how much time would there be between those two occurrences?

(Objected to as trivial.)

A. Depends upon what day in January he got it up and what hour.

X Q. 232. I don't want it so close as that—the time that intervened would not be much over a year, would it?

A. It might not be—depends upon the date.

X Q. 233. And it was between the time of his showing you the box and your going to Philadelphia that the boxes were manufactured, was it not?

A. I can't remember.

154 X Q. 234. Have you not sworn in this case that the boxes were manufactured before you went to Philadelphia?

A. Sample box was made.

X Q. 235. Of what material was this sample box made; I mean metal, steel, iron, wood, or what?

A. Glass, brass and iron, and wood.

X Q. 236. Have you not sworn that the fare-boxes were manufactured before you went to Philadelphia, and that you helped make them?

A. Yes.

X Q. 237. Was that answer true?

A. I am not in the habit of telling untruths.

X Q. 228. In the 227 question you were asked "if the boxes were manufactured between the time of your seeing the first box and your going to Philadelphia," and you answered, "you could not remember." In answer to question 230, you say that the boxes were manufactured between the time of your seeing the first one and your going to Philadelphia, which answer will you have stand?

A. You asked me how many boxes—the last one.

X Q. 239. While working with your father did you work as a mechanic?

(Objected to as trivial, confused and muddled, and indistinct.)

A. I was in his employ—yes.

X Q. 240. At what kind of work?

(Objected to as trifling with the case. Complainant's counsel rejoins that the question is material and not trifling.)

A. Well, all kinds of work—same as he made—car-registers, all kinds of mechanical work.

X Q. 241. Then you worked with your hands and with tools, did you?

155 (Objected to as trifling; complainant's counsel makes the same rejoinder.)

A. Yes, sir.

X Q. 242. Did you do this work in the work-room of your father's place?

A. Yes.

X Q. 243. And this work-room was not the office, was it?

A. One part of the work-room was an office. There might have been a railing. I believe it was all one room.

X Q. 244. Why did your father make the sale to Mr. Slawson?

(Objected to as immaterial.)

A. I don't know.

X Q. 245. It was after your return from Philadelphia that your father told you he had made the sale to Slawson?

A. It was.

X Q. 246. How soon after the first box was made did your father give you the plan for making others?

A. I don't know.

X Q. 247. Please give about the time?

A. I couldn't.

X Q. 248. What color were the boxes?

A. The color of iron.

X Q. 249. Were they painted?

A. I don't remember.

X Q. 250. Then how can you say they were the color of iron?

A. Because that's the way they are cast; they came from the foundry the color of iron.

X Q. 251. Was it east or west side of Broadway where your father's shop was when these boxes were made?

A. I don't remember; he had a shop on both sides.

156 X Q. 252. What part of the work on those boxes did you do?

A. Different parts.

X Q. 253. Where was your residence in Philadelphia?

A. At Moyamensing.

X Q. 254. Give particulars.

A. Don't remember the No.—Florida street.

X Q. 255. Who was your landlord there?

A. Didn't have any—had a landlady.

X Q. 256. Were you a boarder or a tenant?

A. I was a tenant.

X Q. 257. What was the landlady's name?

A. I can't remember now.

X Q. 258. What other street did you live in in Philadelphia?

A. I think in Schriver's Court.

X Q. 259. Who was your landlord or landlady there?

A. Didn't have any.

X Q. 260. Did you board?

A. I did not.

X Q. 261. Did you own the place?

A. I did not.

X Q. 262. If you were neither owner, tenant, or boarder, what were you?

A. I got my victuals there and slept there.

X Q. 263. Did you live in any other places in Philadelphia?

A. I don't remember.

X Q. 264. Did you have any other place of business in Philadelphia than 103 Walnut street.

A. I don't think I did.

X Q. 265. Is it not strange that you do not know whether you did or not?

A. No.

X Q. 266. Did you move your place of business frequently in that city?

A. No.

X Q. 267. Who was your landlord there, at 103 Walnut street?

157 A. I don't remember now; he was an agent.

X Q. 268. Do you know for whom?

A. No, sir.

X Q. 269. Do you remember how much rent you paid?

A. Can't remember exactly; I think it was $20 a month.

X Q. 270. Did you hire by the month?

A. By the year, payable monthly.

X Q. 271, How many years were you at 103 Walnut street?

A. I was there altogether about a year and a half.

X Q. 272. Was your family with you in Philadelphia?

A. Part of the time.

X Q. 273. Do you remember the names of anybody who went to school with you?

A. Yes.

X Q. 274. Give them.

A. Cortelyou—can't remember a great many just now—see some of them once in a while.

X Q. 275. Did you see at Mr. Stephenson's the fare boxes shortly after your father had the first one?

A. I can't say how long; I saw one then.

X Q. 276. But it may have been shortly after your father got his up?

A. I can't say; won't say whether it was or not.

X Q. 277. Through what streets did the stages on which you saw fare-boxes run?

A. I don't remember.

X Q. 278. What makes you think it was the Red Bird line?

A. I cannot say.

X Q. 279. May it not have been on the stages of the 6th or 9th avenue lines you saw the box?

A. I cannot say.

X Q. 280. May it not have been on horse cars you saw the box?

158 A. I rather think not.

X Q. 281. In answer to question 25, you were asked by Mr. Cook if your father made any other or different fare-box after the first one, to which you answered "Yes; shortly after that one." How did the 2d differ from the 1st?

A. I stated at the time, a little different in the size; the principle was the same.

X Q. 282. Tell me the difference.

A. It wasn't so long; can't give the difference to one-eighth of an inch. They were a little smaller; cannot say how much.

X Q. 283. And it was of the 2d kind that you helped to manufacture, was it?

A. There was only one kind manufactured. The 1st was a sample; the others were reconstructed of iron.

X Q. 284. Do you recollect the names of any of the books you used at school?

A. Yes; reading book, writing book, spelling book, all the other kind of books that it is necessary to have in schools pretty much.

X Q. 285. What I want to get at is, do you recollect the names of the authors of those books?

A. I remember some of them.

X Q. 286. Give those names.

A. I think one of them was Playfair's Euclid.

X Q. 287. Is that all you remember?

A. I can't remember now; I think Davies' Arithmetic; am not positive now.

X Q. 288. Did your father manufacture registers at the time he was manufacturing those fare boxes?

A. I believe he did.

X Q. 289. Did you ever see your father write?

A. Yes; have seen him have a pen in his hand; he might have been drawing.

X Q. 290. Would you know his signature?

A. I think I would.

X Q. 291. Did you vote in 1856 for President?

A. I didn't vote at all for nobody in 1856.

159 X Q. 292. Where were you living in 1856, in the fall?

A. I think I was living with father; am not positive; I think I was.

X Q. 293. Was the box you saw on the stage one of your father's manufacture?

A. I cannot say; it might have been.

X Q. 294. Did you examine that box on the stage?

A. I did not.

X Q. 295. When Mr. Wood called on you about the model, did you tell him it was about 1853 when it was made?

A. I don't remember telling him anything.

X Q. 296. Did you ever cast a vote in the city of New York?

A. I don't think I did; I might have.

X Q. 297. Cannot you remember such an important matter?

A. I think I did once; for Abe Lincoln.

X Q. 298. Were you married at the time your father got up the first box?

A. I believe I was.

X Q. 399. When were you married?

A. In 1851, 1852; somewhere thereabout.

X Q. 300. By whom?

A. By a minister; cannot remember his name; belongs to Trinity church, or did.

X Q. 301. Were you married in Trinity church?

A. I was not.

X Q. 302. Where, then?

A. I don't know as that has got anything to do with the business. I won't answer it.

X Q. 303. I ask these questions in order to test your memory. Please answer the last question.

A. Castle Garden.

X Q. 304. You speak of being at Mr. Stephenson's; did you see more than one of your father's boxes there?

A. I don't remember.

X Q. 305. You saw one there anyhow, did you not?

160 A. I think I did.

X Q. 306. Did you know or hear of your father sending one of the boxes to Mr. Slawson?

A. No.

X Q. 307. How many registers did you put in on the Spruce street line?

A. I don't remember.

X Q. 308. Why didn't you put in your father's fare-boxes instead of the registers on the Spruce street line?

A. I don't remember anything about it.

X Q. 309. You don't remember anything about what?

A. Why I didn't put them in; I told you that was my father's business a few minutes ago.

X Q. 310. Even so; why did you not recommend to the Spruce street company your father's boxes?

A. I do not know.

X Q. 311. Were not the registers you put up on the Spruce street line of your father's invention?

A. I believe so; I don't know whether he invented them or not.

X Q. 312. After you came back from Philadelphia to your father, were registers made at his place?

A. He was making registers more or less all the time, pretty much.

X Q. 313. How do you know that this box No. 1 was made about 1853? What I mean is, what makes you able to identify it as the one?

A. Because it has always been round the place; told you that before.

X Q. 314. What enables you to say that so positively, that it has been always round the place?

A. Because it is the only sample box been around.

X Q. 315. At the time your father showed you the box, did he regard it as a completed thing, or one which he was to alter or add to thereafter?

A. I don't know what he thought.

X Q. 316. What did he say in that regard?

161 A. I don't remember.

X Q. 317. I observe in this No. 1 a space between the top and bottom boards; what was in that space, if anything?

(Counsel for complainant hands witness the model No. 1.)

A. There was a drawer there.

X Q. 318. Do you swear there was a drawer there when your father showed it to you?

A. There was.

X Q. 319. What was that drawer made of?

A. Wood.

X Q. 320. What kind of wood?

A. Either pine or white wood, or some other kind.

X Q. 321. What makes you say that?

A. Because I am positive.

X Q. 322. Had that drawer a lock to it?

A. I don't remember.

X Q. 323. How many pieces of glass were on that model No. 1, originally?

A. Same number as on No. 2.

X Q. 324. Two pieces you mean, do you?

A. Yes.

X Q. 325. You are sure there were not 3 pieces, are you?

A. I am sure there were two, any way.

X Q. 326. Did you regard the box No. 1, when your father showed it to you, as a model, instead of a regular working apparatus?

A. I considered it a working model or sample.

X Q. 327. Do you know the difference between a model or sample?

A. Certainly.

X Q. 328. What is the difference?

A. No material difference; might be a working sample; might be a working model.

X Q. 329. How could this model No. 1 be attached to an omnibus for use?

162 A. I never attached one to an omnibus, so don't know; a number of ways, I suppose.

X Q. 330. In the manufactured boxes were there not 2 bells, one that the passengers rung when they paid their fare, and another for the driver?

A. Might have been.

X Q. 331. In the manufactured boxes, was there not a glass which covered the front part of the box from rain?

A. Might have been; I could tell you if I saw the patent—if there was a patent.

X Q. 332. Is it not incredible that you should have been with your father so long, and not to have known if he had a patent on that box?

(Objected to as immaterial in itself, and insulting to the witness, by asking him to stultify himself, by saying that his previous testimony is incredible; that is, unworthy of belief.

Counsel for complainant states that he does not wish or intend to insult the witness.)

A. I didn't know my father's business, everything.

X Q. 333. But you knew enough of his business to have seen this model No. 1, did you not?

A. I have seen this model.

X Q. 334. Did you ever see one of your father's boxes in an omnibus?

A. I saw a box, as I told you before, in an omnibus.

X Q. 335. Was it your father's?

A. I think it was; am not positive; can't say; might have been.

X Q. 336. It was business on the registers that brought you to Mr. Stephenson's, was it not?

A. I think it was, or some other business.

163 X Q. 337. Were any of your father's boxes sent to Mr. Stephenson's?

A. I can't say whether they were or not.

X Q. 338. The manufactured boxes were considerably different from this Exhibit No. 1, were they not?

A. I told you the principle was the same, but of different construction.

X Q. 339. Why was the change made?

A. To make them substantial; that is, made of wood.

X Q. 340. Then this box No. 1 was not substantial, but a sort of illustrative model, was it not?

A. It was a working model made of wood.

X Q. 341. Is the drawer attached to model No. 2 a correct representation of the drawer that was in No. 1?

A. It represents it.

X Q. 342. Why didn't you make a keyhole in this drawer No. 2?

A. I don't know.

X Q. 343. Why didn't you put a lock in this drawer No. 2?

A. I don't know.

X Q. 344. Was there a lock in the drawer that was in No. 1?

A. I don't know whether there was or not.

X Q. 345. Were you paid for making this model No. 2?

A. Yes, sir.

X Q. 346. Have you any objection to stating how much?

A. No, sir.

X Q. 347. Have you been paid yet?

A. Yes, sir.

X Q. 348. Do you recollect how much you were paid?

A. I can't exactly remember—can tell better by looking at my book; I think it was 10 dollars.

164 X Q. 349. Have you attended here under subpœna?

A. I have, otherwise I would not come.

X Q. 350. Have you not expressed sentiments of animosity againt Mr. Slawson, the plaintiff?

A. Not as I know of; not what I would call animosity.

X Q. 351. What would you call animosity?

A. Slander; giving a man a bad name; saying something against his reputation.

X Q. 352. Do you not consider that your father was the inventor of this fare-box now in use?

A. The principle, yes.

X Q. 353. And believeing that, do you not also consider that others have reaped the benefits accruing from the introduction of that principle?

A. It reports speaks correct, I have.

X Q. 354. What does report say in that respect?

A. In respect to my father being inventor there is no report in that, but report as to parties who got the invention from my father and made money out of it.

X Q. 355. Who was that party?

A. I can't name—several parties in the course of my life.

X Q. 356. Do you not know that there has never been a box like your father's made by anybody, after he sold to Mr. Slawson?

A. I can't tell exactly the date he sold to Mr. Slawson—so that I can't say.

X Q. 357. What was the party's name whom you heard made money from your father's invention?

A. I didn't say anybody made money from my father's invention, except what was made after my father sold it?

X Q. 358. That was all right wasn't it?

A. I suppose that was what he bought it for.

X Q. 359. Do you know why your father sold it?

A. Because he was very foolish.

165 X Q. 360. Do you not know that your father was notified not to make or sell such boxes, and he accordingly quit?

A. I never heard anything about it.

X Q. 361. Do you not know that he agreed with Mr. Slawson not to sell any of your father's boxes without the consent of Mr. Slawson, in writing?

(Objected to as inadmissible evidence.)

A. Don't know nothing about it whatever.

X Q. 362. Have you ever known a box like your father's to be made by or used by anybody since your father sold to Slawson?

A. I don't know what day he sold, so don't know anything about it.

(Bills referred to by witness, copied as follows:

"NEW YORK, *Nov. 1st*, 1854.

"Received of Wm. H. Rodgers, of Philadelphia, one hundred dollars on account.

[$100.] "JAMES STEWART.

(Endorsed:) "Oct., '54.

"NEW YORK, *May 29th*, 1854.

"Mr. , machinist, bought of James Stewart, No. 15 Canal street.

"Received New York, May 29, fifty dollars on account from W. H. Rodgers.

"JAMES STEWART.")

X Q. 363. While in Philadelphia did you make registers other than for the Spruce street road?

A. Car registers? Not that I remember of.

X Q. 364. Please look at paper now shown you, marked for
166 identification "Exhibit Rodgers No. 1, B. L. B., Examiner," and state if the signature thereto is in your father's handwriting.

A. It looks like his handwriting; I would not swear to it though.

X Q. 365. Look at the paper now shown you, and marked Exhibit Rodgers No. 2, B. L. B., Examiner, for identification, and state whether the signature thereon is in your father's handwriting.

A. It looks more like his writing than the other.

X Q. 366. Have you any doubt that this is your father's signature?

A. It might be; it looks like it.

Adjourned to Thursday, February 6, 1878, at 10 o'clock.

THURSDAY, *February* 6.

Examination resumed.

Redirect, by Mr. CROOK:

R. D. Q. 367. Since your former examination, when you was asked if there was any key to those boxes, are you now able to answer more fully?

A. Yes, sir.

R. D. Q. 368. Please answer as to that.

A. I have found one of the keys since I was here last, and one of the drawers to one of the boxes.

(Drawer and key produced, and marked Exhibit No. 3, February 6.)

R. D. Q. 369. Where did you find that?

A. In my factory.

R. D. Q. 370. What is that intended to be used for?

A. Drawer for money; fare-box.

R. D. Q. 371. When do you suppose that Exhibit No. 3 was made?

167 A. I suppose about the time the box was being fitted up; these locks were made on purpose for the boxes.

WILLIAM H. RODGERS.

Taken and reduced to writing, read over to witness, and by him subscribed before me this 6th day of Feb., 1879.

B. LINCOLN BENEDICT,
Special Examiner.

ANDREW MACGUERK, called as a witness for respondent, and sworn, deposes and says:

Q. 1. What is your business?

A. Repairing cars for the Grand Street and Prospect Park Co.

Q. 2. Have you been familiar with fare-boxes some years back?

A. Since I have been working on different roads.

Q. 3. For how long?

A. Have been working off and on for some 16 to 18 years, I guess.

Q. 4. Did you make a fare-box some years ago?

A. Yes, sir.

(Fare-box produced.

Any testimony of this witness touching prior knowledge or use of the invention embraced by either of the patents in suit is objected to by complainant's counsel on the ground that the witness' name and residence have not been pleaded in the answer.)

Q. 5. Did you make that box?

A. Yes, sir.

Q. 6. When?

168 A. I cannot just exactly tell the date, but it was shortly after we got the cars there, that was in 1869 or 1870, or somewhere in that neighborhood.

Q. 7. Was that box used?

A. Yes, sir.

Q. 8. Where?

A. It was used on Franklin ave.

Q. 9. Were there other boxes like that?

A. No; there was no other like that; that was the only one made.

Q. 10. You mean there was no duplicate made?

A. No, sir.

Q. 11. Was this made as a sample?

A. No, sir; as a box.

(Objected to as leading question.)

Q. 12. At that time were there other fare-boxes used on that line?

(Same objection.)

A. Yes, sir.

Q. 13. What was the difference between the others and this, as to principle?

A. The one was what is called the Slawson box; they come in Mr. Stephenson's cars which they got built there.

Q. 14. How were they lighted, those Slawson boxes?

A. They were lighted by a lamp in the box below, inside.

Q. 15. How is this one lighted?

A. Lighted by the top; this lamp was not lit at the top, but shone light on it all round, up in here and all round.

Q. 16. By centre light, you mean a light in the centre of the roof?

A. In the centre of the roof.

Q. 17. Please look at the specifications of the Castor patent. (Paper shown.)

169 A. That is something the same; on the same principal as that is.

(Castor patent referred to, is objected to by complainant's

counsel, on the ground that the same, which is a reissue, date September 22, 1874, has not been pleaded in the answer.

Paper marked for identification, Exhibit 4, B. L. B., February 6, '79.)

Q. 18. Do you know of Mr. Wood having some cars come from Philadelphia, a year or two ago?

A. Yes, sir.

Q. 19. Whose make were those?

A. Mr. Brill's.

Q. 20. Do you know whose fare-boxes were on those?

A. They were some that Mr. Wood got up.

Q. 21. Similar to this?

A. Yes, sir.

Q. 22. How long were those used?

A. From the time they came; between two and three weeks.

Q. 23. What did you do with them then?

A. By Mr. Wood's orders I took out the glass that shone light from the top and I put wood in place of the glass to prevent the light.

Q. 24. You put wood in at the top here?

A. Yes, sir.

Q. 25. And what did you do with the lamp?

A. That closed the light of the lamp out.

Q. 26. How was light to get into the box then?

A. By an outside reflector.

Q. 27. Where was that placed?

A. That was placed on the front; some on the sides of the lamp box.

(Box produced and offered in evidence, and marked Respondent's Exhibit No. 5.

Winess examines the exhibit.)

170 Q. 28. Please indicate where you put the piece of wood to shut the light out from the lamp?

A. The box was made a little different from this—right here.

Q. 29. Take that paper and put it where you put the wood?

A. (Witness places the paper.)

Q. 30. What was the object and effect of putting that wood there?

A. To stop the light from getting through into the box.

Cross-examined:

X Q. 31. Are you in the employ of the defendant?

A. Yes, sir.

X Q. 32. How many cars did you make the alteration you have spoken of on?

A. I have made them in the cars, I think.

X Q. 33. How many?

A. There was six of these Philadelphia cars.

X Q. 34. Those are the cars that you spoke of as having been altered by you?

A. Yes, sir.

X Q. 35. How long do you think they were used before you made the alteration?

A. I don't exactly know; between two and three weeks, I should think, after they came there.

X. Q. 36. Where did you understand they came from?

A. From Philadelphia.

X Q. 37. From whom; what builder?

A. Mr. Brill.

X Q. 38. Did Brill build all the cars that are used by this company, that have cash boxes?

A. No, sir.

X Q. 39. Who built these other cars?

A. Mr. Stephenson built some. I don't know the man's name at New Utrecht.

X Q. 40. Was it Michael Fiegel?

171 A. Yes, sir.

X Q. 41. What fare-box or whose fare-box did the Stephenson cars have when they first came to you?

A. Slawson's box.

X Q. 42. How many of these Stephenson cars with the Slawson box came?

A. Twenty-seven is the number, I believe.

X Q. 43. Was any change made in the Slawson box; was there any taken off and another put on?

A. Yes, there was.

X Q. 44. What cash-box was put on instead?

A. This cash-box, just as it stands here. (Points to Exhibit No. 5.)

X Q. 45. You mean just as it stands, without the paper you adjusted?

A. Yes, sir.

X Q. 46. What cash-box did the New Utrecht cars have on?

A. Same as this.

X Q. 47. You mean without the piece of paper or the wood which it represents?

A. Yes, sir.

X Q. 48. And in both these kind of cars was the cash-box lighted the same as in this one you have produced?

A. No, sir.

X Q. 49. What was the difference?

A. Mr. Stephenson's were lighted by a light that came up here (indicating).

X Q. 50. But after you made the change and put on the Wood cash-boxes—fare-boxes—the boxes were lighted the same as this Exhibit No. 5, were they?

A. Yes, they came that way from New Utrecht, just the same as the exhibit represents.

X Q. 51. How long were those New Utrecht cars used in that way?

A. All the time since we have got them.

172 X Q. 52. And the Stephenson cars, have they been used the same length of time?

A. I don't know; we have been altering them as soon as we get the lamps—the Wood boxes we took the Slawson boxes out.

X Q. 53. And how were the Wood boxes, which replaced the Slawson boxes in the Stephenson cars, lighted?

A. Just the same as this Exhibit No. 5.

X Q. 54. Down through the top with a reflector, you mean?

A. Yes, sir.

Q. 55. Will you please mark a letter A, where a lamp is placed on these fare-boxes?

(Witness indicates).

A. I have done so with a capital A.

X Q. 56. How many of the New Utrecht cars were there?

A. I don't know exactly; something like five, I think.

X Q. 57. What is the reflector, contained in the hood immediately over the fare-box, made of?

A. Glass, with amalgam on the back.

X Q. 58. Was that the case with those Wood fare-boxes in the New Utrecht and Stephenson cars?

A. Yes, in the Stephenson cars it is the same.

X Q. 59. These reflectors spoken of were inclined, were they not, instead of standing straight up and down?

A. Yes, just as it is here; but some of them had a long reflector over the lamp, which also threw the light down into the fare-box.

X Q. 60. The light went down through the opening in the top of the fare-box?

A. It goes down all over, through the opening in the top as well as other places.

X Q. 61. Were these Wood fare-boxes made by the company defendant?

A. Yes, sir.

173 X Q. 62. Are they in use now?

A. They are used for the company, I suppose; Mr. Wood got them for himself.

X Q. 63. They are in use now by the company?

A. Yes, sir.

X Q. 64. And about how long have they been in use?

A. That I cannot tell.

X Q. 65. They have been in use on the New Utrecht cars since they came?

A. Yes, sir.

X Q. 66. When did those New Utrecht cars come?

A. I cannot tell; somewheres near two or three years, I think; the first one may have come in that time.

X Q. 67. Which were used first by the company, the Stephenson cars with the Wood fare-box and reflector, or the New Utrecht cars?

A. The Stephenson cars, I am sure.

X Q. 68. About how long have the Stephenson cars been used in that way by the company, before the New Utrecht cars came?

A. That I cannot say exactly; between four and five years, I should say—no—that is a different thing; the Stephenson cars had the Slawson box when they came, and when Mr. Wood got up this box we put them in the Stephenson cars as soon as we could.

X Q. 69. How long were the Stephenson cars used with the Wood reflector and fare-box, before you got the New Utrecht cars?

A. The box was in the New Utrecht cars when they wasn't in the Stephenson cars at all.

X Q. 70. When was the change made in the Stephenson's, from the Slawson to the Wood fare-box and reflector, like Exhibit 5; that is, when were the Slawson boxes taken out and the Wood boxes put in?

A. It was, I think, last fall that we done the last of them, three or four months ago.

174 X Q. 71. When was the first one?

A. We started all through and done them all about the same time—followed right on.

X Q. 72. Why was that change made?

A. On account of the smoke of the lamp in the side of the box.

X Q. 73. Was that the reason why the Wood fare-box was used?

A. That was part of the reason, I believe; the passengers complained of the smoke that came from the little lamps that was on the side.

ANDREW MAGUERK.

Taken and seduced to writing and read over to the witness, and by him subscribed before me, this 6th May, 1879.

B. LINCOLN BENEDICT,
Special Examiner.

JOHN HUTTON, called as witness for the respondent and sworn, deposes and says:

Q. 1. What is your business?

A. Car builder.

Q. 2. Are you in employment of the railroad co.?

A. Yes, sir; since September, 1877; it may be the beginning of October.

Q. 3. Been in their employ ever since?

A. Yes, sir.

Q. 4. Do you know of these 27 Stephenson cars in their possession and use?

A. Yes.

Q. 5. What fare-boxes did they have in them at first?

A. Slawson boxes; marked Slawson.

Q. 6. Up to what time?

175 A. To the middle of August, 1878.

Q. 7. What was done with them then?

A. They were taken out.

Q. 8. For what reason?

A. Disagreeable smell, and were cumbersome.

Q. 9. What was substituted?

A. Boxes the same; lamp-boxes and money-boxes the same as Exhibit No. 5.

Q. 10. How was the interior of those No. 5 boxes lighted at night?

A. From reflection caught after light had escaped from the lamp-box—same as Exhibit 5.

Q. 11. Were they lighted by light obtained through an opening in the head-lamp box?

A. No.

Q. 12. The bottom of the head-lamp box, was it over the fare-box at all?

A. About an inch or an inch and a half on one side, as Exhibit 5.

Q. 13. Was that inch solid wood?

A. Yes.

Q. 14. Do you recollect the Fiegel cars that have been mentioned?

A. Yes.

Q. 15. Do you recollect when they came into the defendant's possession?

A. I believe the latter part of 1877; some came in September—I think one came then; the last came in August, 1878; the rest along between.

Q. 16. How many were there in all of Fiegel's?

A. Five.

Q. 17. Did they all come within that year?

A. The other two came in the beginning of '78 or the last of '77; could not be positive.

Q. 18. What fare-boxes did they have?

A. Mr. Wood's.

Q. 19. With the same manner of lighting?

A. Yes.

Q. 20. How were they lighted?

176 A. They have no light at all originally, except from a lamp-box in the other end of the car. The first one was made with a hole in the bottom of the box, but the hole was stopped up before the car was used or left the maker's shop.

Q. 21. How was the lamp-box placed over the first one?

A. Right over the fare-box; the same as in common with all cars.

Q. 22. After the hole was stopped up, what was done?

A. Nothing done till about 4 months ago, I should suppose, when there was a reflector placed on the front of the lamp-box.

Q. 23. Where did that throw the light?

A. Threw some down in front of the box, but without any effect on the money table.

Q. 24. How were the other cars fixed?

A. They had no light except from the box in the other end of the car, the hind end, until recently. About 4 months ago, as near as I can recollect, there were reflectors put on the front of the box, the same as the other one.

Q. 25. When you say these Fiegel cars were lighted from the other end of the car, do you mean they had no light over them at all?

A. No, sir.

Q. 26. Where were these reflectors put; on what boxes?

A. The reflectors on the Fiegel cars were on the top of the front of the lamp-box.

Q. 27. Please tell how the box for the head lamp is situated in the Fiegel cars, and the effect upon lighting the fare-box in them.

A. The lamp-box is long, with a solid bottom extending from door pillar to corner pillar with a wooden bottom, covering completely the top of the money-box; therefore the money-box receives no light from the lamp-box.

Q. 28. In this light box on No. 5; this lamp-box is the interior

177 of the fare-box, to which it is affixed, lighted at night by light obtained from any lamp thrown through any opening in the head-lamp box, and the chamber for the temporary detention of the fare?

A. No, sir.

Cross-examined:

X Q. 29. Just describe how the light from the lamp located at A, in Exhibit No. 5, does get through the top glass in the fare-box of said exhibit; describe its passage.

A. It passes through the glass at the left end of the lamp-box, at, I suppose, right angles; and after the light has completely left the lamp-box, it is caught by a reflector at the end of said box, outside on the end; and the reflector is at an angle of about 30°, and thrown perpendicular down on the money table of the fare-box, exactly the same as Exhibit No. 5.

X Q. 30. And Exhibit No. 5 represents exactly the way the fare-boxes have been lighted since the change from the Slawson to the Wood fare-boxes in the Stephenson cars?

A. Yes.

X Q. 31. When you say you were employed by the company, you mean the defendant company?

A. Yes.

Redirect:

R. D. Q. 32. Can you now give the date more accurately of the changing of the boxes in the Stephenson cars?

A. I have in my book (refers); it says here: "Mr. Wood's boxes put in Nos. 10, 4, 3, 9;" that is, the numbers changed from the middle of August, 1878, to the middle of September. I have got the numbers that were changed first, but after I didn't keep them in rotation.

JOHN HUTTON.

178 Taken, and reduced to writing, and read over to the witness, and by him subscribed before me, the 6th day of February, 1879.

B. LINCOLN BENEDICT,
Special Examiner.

FEBRUARY 12TH, 1879.

Hearing resumed. Same appearances.

JEREMIAH V. MESEROLE, called for respondent, deposes and says:

Q. 1. Where do you live?

A. I live in Gates avenue, Brooklyn; business, surveyor.

Q. 2. Have you been in the habit of riding in the Grand Street, Prospect Park and Flatbush Railroad horse-cars?

A. Yes, sir; since the road was opened.

Q. 3. Have you noticed the fare-boxes with the mark of Slawson's patent on them?

A. Yes, sir.

Q. 4. When, in what years?

A. Since the road has been running; the Slawson boxes have been changed within a few years; don't know exactly when.

Q. 5. Did you notice anything which attracted your attention in regard to those boxes, and which you communicated to Mr. Wood?

A. The smell from the lamp, that was used to cast a light on the platform of the money-box.

Q. 6. Please describe it.

A. The smell from the lamp was so obnoxious, that I often had to get

out on the platform, and sometimes opened the box and blew the
179 lamp out; told Mr. Wood many times, that for the comfort of his passengers he ought to get rid of that thing.

Q. 7. Latterly has he got rid of that thing?

A. Yes, sir; there has been a change; the lamp is got rid of.

Q. 8. Have you heard other passengers make complaint?

A. Often—a great many of them.

Cross-examined:

X Q. 9. Please state the time when the change was made.

A. I could not give you the correct time when the new boxes, with Wood's name, were put up—two or three years back.

X Q. 10. Do you swear it was two years back?

A. I think it was two years back—some considerable time; I think it is as much as two years.

X Q. 11. What change was made?

A. Doing away with that side lamp—the little lamp at the side down below, and the light was reflected on the box by a series of lenses or glasses.

X Q. 12. How often have you ridden on that line within the last year?

A. I ride on a average four times a day, except Sunday—sometimes only twice or three times.

X Q. 13. The lamp which smelled was located in the head-lamp box, was it not?

A. No, sir; it was not.

X Q. 14. Where was it then?

A. It was on the side—the right-hand side of the fare-box—the Slawson box, on a level with the tilting platform, on which the money dropped when it was put in the box.

X Q. 15. Then the smelling lamp was a separate lamp from the one which lit the car?

A. Yes, sir.

180 X Q. 16. Please describe what change was made in the way of lighting the fare-box?

A. It was lighted from the top instead of the side. I only noticed some glasses in the top of the car, and that the light was reflected down, instead of from the side.

X Q. 17. That is to say, the fare-box was lit by means of light from the head-lamp box, which light was reflected into the fare-box?

A. That is substantially a repetition of what I said before.

X Q. 18. You understand mechanical drawings?

A. Somewhat—have not had much experience that way.

X Q. 19. Please look at the Complainant's Exhibit Middleton Patent, and particularly at Fig. 1 of the drawings thereof, and state if that drawing does represent the means of lighting the fare-box, after the change.

A. It is on the same principle. I do not know about the arrangement of the glasses.

X Q. 20. Did you not see the last-described arrangement in use on those cars before July 1st last, and since 1876?

A. I cannot answer that any more precisely than before. I have noticed the change the last two or three years.

X Q. 21. Look at the fare-box and head-lamp box (Exhibit 5), and

state if they do represent the fare-box and means of lighting the same which you say was used when the change was made—the changed form.

A. Something like that; but I paid no particular attention to it; whether those are the same kind of pieces I can't say.

X Q. 22. Assuming the fare-box (Exhibit 5) to be the Slawson box you have stated, please state where the lamp which smelled was located.

A. Right opposite the tilting platform.

J. V. MESEROLE.

181 Taken and reduced to writing, and by the witness subscribed and sworn to before me, this 12th day of February, 1870.

B. LINCOLN BENEDICT,
Special Examiner.

ANTHONY ROGERS, called for respondent and examined, says:

Q. 1. Where do you live?

A. Ridgefield Park, New York.

Q. 2. About how old are you?

A. 47 years.

Q. 3. What is your business?

A. With my father, mechanical engineering.

Q. 4. What was your father's name?

A. James.

Q. 5. What was his business?

A. Mechanical engineering, clock and watch making; general run of mechanical engineering.

Q. 6. At what place did he carry on business?

A. Different places in New York; Broadway and Fulton street; a long while in Broadway.

Q. 7. Was he an inventor?

A. He was.

Q. 8. How long ago did you see a fare-box for the purpose of receiving money?

A. Week before last.

9. Q. What is the farthest period of time back that you first saw a fare-box?

A. 1855.

Q. 10. Where?

A. In my father's place in Broadway.

Q. 11. Did you ever see that box, Exhibit 1?

A. Many a time; saw that in Broadway at that time.

Q. 12. Was it made there under your father's direction?

182 A. I believe it was. I believe father made that himself.

Q. 13. Did you see them in use about that time anywhere?

A. That I cannot say. I saw them a making and helped work on them.

Q. 14. Did you see fare-boxes in use anywhere about that time, fare-boxes of any kind?

A. I did not.

Q. 15. Did you see any contrivance of the sort in stages or omnibuses?

A. We made them for the Madison avenue line; whether, at that time, we made that lot I cannot say. On my return home I rode on the Madi-

son avenue stages and saw them; I guess I saw them in 1856, if I mistake not, the latter part of the year.

Q. 16. Were a number of them made in your father's shop?

A. A great many; can't tell how many; if cast-iron, glass, brass.

Q. 17. What year, if you can tell, or years were the first made in your father's shop?

A. I guess from bills and books, in 1853 we must have been at work on them.

Q. 18. Did you ever see Exhibit No. 3 before?

A. Yes.

Q. 19. Was that like what your father used?

A. Yes, he used the double lock so that they couldn't very well pick it.

Crosss-examined:

X. Q. 20. When were you first spoken to about this case?

A. I think last August a year ago, in the summer some time; I can't tell exactly.

X Q. 21. Who spoke to you?

A. Mr. Wood and a lawyer with him.

X Q. 22. Have you any brothers living?

A. I have three.

183 X Q. 23. Give their names.

A. William lives in South 2d street, near 11th, in Williamsburgh; George lives in Greenpoint, the location I don't know; John resides at 174, I think, 37th, near Lexington avenue.

X Q. 24. When did you see John last?

A. I guess about two months ago; inside of two months.

X Q. 25. When did you see William last?

A. Saw him last—met him once in the street going on 14 months ago; passed him.

X Q. 26. When Mr. Wood and the lawyer called on you, did you sign any paper for them?

A. I believe I did.

X Q. 27. Did you swear to it besides?

A. I think it was signed in my father's shop, at the desk; don't think I swore to it; am quite positive.

X Q. 28. Did you keep a copy?

A. No; didn't think it worth while.

X Q. 29. Where was the shop?

A. In Fulton street, near William, New York.

X Q. 30. What were you doing?

A. Making models; work of all kinds; was not at work at the time.

X Q. 31. Did you meet those gentlemen by appointment at that place?

A. No, sir; it was after father's death, when the business was being settled up at the shop.

X Q. 32. Was any money offered or paid you at that interview?

A. Not one cent.

X Q. 33. Nor promised?

A. No, sir.

X Q. 34. How long a paper was it you signed?

A. Cannot tell that now.

X Q. 35. Was it one side of a sheet or two sides?

A. Cannot recollect.

X Q. 36. Was it already written when you signed, or was it written in the place?

184 A. That I cannot say; it might have been written in the place, and I not know it.

X Q. 37. Did you read the paper, or was it read to you?

A. I must have read the paper.

X Q. 38. Do you know which?

A. I must have read it.

X Q. 39. You are sure you read it yourself, and did not have it read to you?

A. Might have been both, but I must have read it.

X Q. 40. How long did that interview last?

A. I cannot tell; never thought anything more about the matter.

X Q. 41. How many interviews have you had on the matter?

A. Two or three, I suppose.

X Q. 42. When was the 2d had, and who were present? You said you had had three interviews; at which was the paper you spoke of signed?

A. I believe it was the last.

X Q. 43. And Mr. Wood and the lawyer were present?

A. That I cannot say.

X Q. 44. Where was the 1st interview held, and who was present?

A. Mr. Wood came to our place to inquire, told who he was, then asked us to look up the thing, so when he came again we could have something to work upon.

X Q. 45. When was this?

A. I think it must be a year or two ago; cannot say exactly.

X Q. 46. Where was it?

A. All interviews was in father's place.

X Q. 47. Where?

A. Fulton st., New York.

X Q. 48. How many times did the lawyer accompany Mr. Wood?

A. I saw him once, I believe, as near as I can recollect.

185 X Q. 49. And it was when the lawyer was present that you signed the paper?

A. That I won't say; can't tell who was present.

X Q. 50. What were the contents of that paper?

A. I believe it was father's making the boxes some years previous; dates furnished by books and bills.

X Q. 51. What did Mr. Wood say his object was in getting this information?

A. I believe to defend himself against a suit, or something of that kind.

X Q. 52. In what year did you go to work for your father?

A. 1846.

X Q. 53. When did you leave him?

A. Except for two or three years, I was with him to his death; two years ago this fall coming.

X Q. 54. Do you know that your brother William has been examined as a witness in this case?

A. So I have understood.

X Q. 55. Who told you?

A. Mr. Wood.

X Q. 56. Did you read or hear read your brother's evidence?

A. No, sir.

X Q. 57. Were you informed of anything he had said?

A. Something about him being in the country in connection with these machines, and he having his bills with him.

X Q. 58. What years were those you were absent from your father?

A. Latter part of 1855, towards the end; again 1862–3–4–5, down South part of each year; once in 1866, I think.

X Q. 59. In what year did your brother William commence work for your father?

A. I was too young to remember that; he is older than I, considerable.

X Q. 60. How much younger are you then?

186 A. Four to six years.

X Q. 61. When you commenced work for your father and continued up to the time you left first, was your brother William there?

A. No, not all the time; I believe he went to Philadelphia, but the year he went I don't recollect; I know he went and I know father bought the tools for him, previous to that.

X Q. 62. While he was at work for your father, from 1846 till he went to Philadelphia, did he work steadily, or was he away some days at a time?

A. That I cannot tell.

X Q. 63. Did not your father have trouble with him because of his absence?

A. That is a family matter.

X Q. 64. Is not the matter of this box a family matter?

A. No, sir; there is no relationship there.

X Q. 65. Is it not the fact that William Rodgers was often away from his work for his father?

A. To my knowledge and belief he was a very steady workman; no trouble about that.

X Q. 66. Did your father take you into his confidence, as to his business matters?

A. No, sir; in fact, he took nobody.

X Q. 67. You say you believe your father made this box, Exhibit No. 1?

A. I do.

X Q. 68. What are the grounds of your belief?

A. I have seen him working at it.

X Q. 69. Was he working at it secretly?

A. Oh, no; not from his employees.

X Q. 70. How many employees did he have at that time?

A. Four or five.

X Q. 71. Give their names.

A. Josiah Waldie, I believe; John Williams, myself, and my brother William; there might have been one or two more.

187 X Q. 72. Did your father keep this box from the sight of outsiders?

A. I believe he did.

X Q. 73. Did you see the box when it was finished?

A. Yes, sir.

X Q. 74. You are quite sure of that?

A. Yes, sir.

X Q. 75. Did your father show it to you?

A. I don't know whether he showed it to me or not; I saw it lying on his desk or table.

X Q. 76. Did you know what it was?

A. Yes, sir.

X Q. 77. How did you know that?

A. By hearing him talk about it.

X Q. 78. What did he say?

A. That he was fitting up a money box.

X Q. 79. Did he claim any especial advantage of this box?

A. He did.

X Q. 80. He claimed it as an improvement?

A. No, sir; he claimed it as a means of making drivers more honest; nothing had been got up yet.

X Q. 81. What did he say he was going to do?

A. Make it and sell it.

X Q. 82. Had there not been registers to prevent drivers from being dishonest?

A. Before or after, I cannot say; have not studied that matter up.

X Q. 83. Can you name anybody outside of the workmen to whom you heard your father speak about this box?

A. No, sir; the workmen are dead.

X Q. 84. Was not your father making car registers at the time he got up this box?

A. Cannot say; have not studied it up.

X Q. 85. How long did your brother remain in Philadelphia?

A. That I cannot say.

X Q. 86. Was this box made after he came from Philadelphia;
188 that is to say, you can't tell whether this box, Exhibit No. 1, was made before or after your brother returned from Philadelphia?

A. By his bills, it was made before he went to Philadelphia; of my own knowledge I cannot say.

X Q. 87. You say a great many of the boxes were made; what do you mean by that?

A. I would call 40, 50, 60, a good many; how many were made, I cannot say.

X Q. 88. When your father had this box No. 1 completed, did he express himself pleased with it?

A. I believe he did.

X Q. 89. And said he was to manufacture them?

A. Cannot say I heard him say that exactly; that was the substance.

Examination suspended till Feb. 13th, 10 a. m.

FEBRUARY 13TH, 1879.

Hearing resumed.

Cross-examination of Anthony Rodgers resumed:

X Q. 90. What part of the work did you do on the manufactured boxes.

A. I put them together first before the inside motion was put in.

X Q. 91. What else did you do on them?

A. As I got more perfect, I finished them complete, except the lamps.

X Q. 92. Please describe the boxes as manufactured?

A. It was about 8 inches long, about 3½ to 4 inches wide, and about 2½ deep one part, and the part for receiving the money, I suppose, about 2 inches deep; on the top of which was a lid, to which was attached an arm operating a bell handle; there was also a push-piece connected with the bell under the money receiver, a drawer provided with a lock
189 with two bolts; that is about it; the money receiver being made of glass and iron, also a slide to drop the money in the drawer.

X Q. 93. Is that the best description you can give?

A. Yes, sir; it is.

X Q. 94. Where were your father's stores located, in which you saw the wooden model?

A. In Broadway, near Canal street.

X Q. 95. East or west side of Broadway?

A. The west side.

X Q. 96. Do you know the number?

A. I believe 421.

X Q. 97. Had your father before that time had a store on the other side of Broadway?

A. He had for a time.

X Q. 98. In what store were the boxes made?

A. In Broadway, near Canal, where I saw the box. I do not say that it was the first time I saw the box in '55; it was the first time in my recollection.

X Q. 99. You mean that your recollection is that you first saw the wooden model in 1855?

A. That I did then see it, but whether for the first time I can't say.

X Q, 100. Were the manufactured boxes painted?

A. They were.

X Q. 101. Of what color?

A. White.

X Q. 102. Had they any inscription or label on them?

A. I believe they had father's name on them.

X Q. 103. Was there any mark of patent on them?

A. I think there was a patent applied for, first ones; we were getting the patents.

X Q. 104. Do you swear that there was a mark of patent applied for on any of those boxes? Please answer that question considerately.

A. It strikes me there was; I won't be sure, but it runs in my mind there was.

190 X Q. 105. But you can't swear that the boxes were marked patented?

A. I think I can.

X Q. 106. Name the persons who made the castings for those boxes.

A. I won't be sure which one: Worrall, James Jackson, and Braid—I believe that is the name—and Mackrell & Richardson.

X Q. 107. Please locate the places of these parties at that time.

A. Worrall was in Elm street, near Leonard, I think it was; Jackson was in East 24th street; Braid, I believe, was in Mercer street; and Mackrell & Richardson was corner of Houston and Norfolk, I think.

X Q. 108. What was the business of these parties?

A. Iron founders; Jackson was iron founder and gratings.

X Q. 109. Which one of these parties made the castings for your father?

A. We had them made at different ones; won't say all of them did, but some of them did.

X Q. 110. How many bells were to those boxes?

A. One with one hammer operating on them.

X Q. 111. Who struck that bell, the driver or passenger?

A. Both.

X Q. 112. Was the bell struck by both from the one side?

A. No.

X Q. 113. Were the manufactured boxes different from the wooden model?

A. Not in anything material; may have been a little longer and a little wider, but not different materially in shape or form.

X Q. 114. Were there as many parts in the wooden model as in the manufactured boxes?

A. No, sir.

X Q. 115. Why were there more parts put in the manufactured boxes than in the wooden model?

191 A. The wooden model was made with the intention of ascertaining shape and size for the purpose of holding the works.

X Q. 116. Were these works in the wooden model?

A. No, sir; not all the works; part.

X Q. 117. Did the wooden model have a drawer?

A. That I won't say; was an immaterial part; the main part being slide and money receiver, which was on the model.

X Q. 118. But the drawer was an important part of the manufactured boxes, was it not?

A. Yes, sir; being to use.

X Q. 119. Where did your father get the glass for the manufactured boxes?

A. I do not know; I believe he bought it in sheets and cut it in small pieces.

X Q. 120. Where did he buy the bells for those manufactured boxes?

A. That I can't say now, whether he had them cast or bought them ready made.

X Q. 121. How soon after making the wooden model did he commence manufacturing the boxes?

A. After seeing the model; my first recollection of seeing the model was in '55; he was making boxes.

X Q. 122. How do you fix the date of '55?

A. By my leaving the latter part of the year, or beginning of '56, on the first telegraph expedition of the Atlantic cable.

X Q. 123. How long were you on that expedition?

A. I believe about 11 months, in the navy-yard and on that expedition; may be more.

X Q. 124. Did you go abroad on that expedition?

A. Yes, sir.

X Q. 125. To what place?

A. To England.

X Q. 126. Did you help lay that cable?

A. I was down in the engine room; I was engaged in laying it.

192 X Q. 127. On what ship?

A. The Niagara.

X Q. 128. When did you leave that expedition?

A. We were discharged on the night of election, November, 1856.

X Q. 129. Where were you discharged, and from what ship?

A. Brooklyn navy-yard; from the ship Niagara.

X Q. 130. On being discharged, what did you do?

A. Didn't do anything for awhile; I also fix the date from the books and papers of my father.

X Q. 131. Were those books and papers in your handwriting?

A. Father's, I believe.

X Q. 132. Did you see those books and papers while they were being written?

A. I would not say that—too long ago.

X Q. 133. Have you brought those books and papers with you?

A. I believe they are sold and destroyed.

X Q. 134. When you saw this wooden model first, was there any glass on it that covered the top?

A. Yes, sir; there were three pieces of glass.

X Q. 135. Do you swear that this is the identical model you saw so long ago?

A. I do.

X Q. 136. That is because you don't know of there having been any other?

A. That is the only complete model I ever saw; there may have been incomplete ones.

X Q. 137. Why has this model been preserved?

A. More by accident than anything else; I believe he used to stuff things in it, on the shelf.

X Q. 138. Was it considered of any value?

A. That I cannot say.

X Q. 139. Why wasn't it sold to a stage or car co.?

A. Wood would not do on the outside of a stage; it would do on the inside of a car.

X Q. 140. If it would do inside of a car, why was it not sold to a car?

193 A. For the simple reason that he had no orders for it for a car.

X Q. 141. I refer to the wooden model No. 1.

A. It wasn't made for sale; wasn't made for use in a car—that model.

X Q. 142. What was it made for then?

A. To work by.

X Q. 143. As a working model?

A. As a working model, except the bell and hammer, which are not inside.

X Q. 144. Is there any other circumstance that makes you say 1855?

A. It strikes me possibly now that the men stopped and went on with the Niagara's work for a little period; then I left.

X Q. 145. What men?

A. Men employed in my father's shop.

X Q. 146. What has that to do with the fare-box?

A. I think that was the last job I was on previous to going on the Niagara.

X Q. 147. Do you swear to that?

A. I am pretty confident.

X Q. 148. I ask you if you swear to that positively?

A. I think it was.

X Q. 149. Did the men go over to the navy-yard to work on the Niagara?

A. No, sir.

X Q. 150. Where did they work?

A. In my father's shop.

X Q. 151. What time in 1856 did you enter the Navy?

A. The latter part of 1855 or 1856 I went away in her; have looked for my discharge, but could not find it.

X Q. 152. Was not your father an ingenious man?

A. He was.

X Q. 153. Did he think favorably of this proposed fare-box?

A. He did.

194 X Q. 154. Did he see any railroad or omnibus men, as to the utility of the proposed box?

A. That I could not say, not being with my father everywhere.

X Q. 155. Were there plans drawn by which the boxes would be made?

A. That was our box to work by; the main points.

X Q. 156. How did the founders know what to do?

A. They merely had wooden patterns to mould from.

X Q. 157. Were there not patterns made?

A. Yes, sir; my father or Waldie made them to cast from, being very simple.

X Q. 158. At what time were the patterns made?

A. That I cannot tell you.

X Q. 159. Give us about the time?

A. That I cannot; whether before or after I saw the model, I cannot say.

X Q. 160. What year can you positively swear you first saw the model; I want your positive statement of the fact?

A. I think it was in 1855, to the best of my knowledge and belief.

X Q. 161. Can you swear it was not in 1856?

A. In 1856 I was aboard the Niagara at sea.

X Q. 162. I ask you again if you can swear it was before 1856?

A. To the best of my knowledge and belief, I think it was.

X Q. 163. I do not ask what you think or believe—neither thought nor belief is admissible in the trial of cases—I ask you again, can you swear that you did see that model before 1856?

A. To the best of my knowledge and belief—I cannot go further than that.

X Q. 164. Can you swear positively and unequivocally that you saw that model before the year 1857?

A. To the best of my knowledge and belief, I think I did.

195 X Q. 165. And that is far as you can say?

A. Yes, sir.

X Q. 166. Did you help to work on car registers with your father?

A. I did, sir.

X Q. 167. After you came back from the expedition?

A. Yes, sir.

X Q. 168. What was the object of those registers?

A. Counting passengers.

X Q. 169. That is a check on the driver or conductor?

A. Yes, sir.

X Q. 170. Your father made a good many of those after you came back, did he not?

A. I believe he did.

X Q. 171. What did you understand was the object of your signing the paper you spoke of?

A. Merely the protection of Mr. Wood's rights, showing that father had a prior claim; that's all my object was.

X Q. 172. How could you swear you father had a prior claim?

A. By his own words.

X Q. 173. Then you assume your father knew everything that had been done in that line?

A. Yes, sir; from Deschamps down to the lowest of them.

X Q. 174. What did Deschamps do?

A. He made registers; I never saw the man, only heard of him.

X Q. 175. Did Deschamps make fare-boxes?

A. Not to my knowledge; he might have done it.

X Q. 176. And he might have done it before your father?

A. I think not; not from father's talk.

X Q. 177. Can you tell whether the paper you signed is in conformity with testimony you have given?

A. I think it is.

196 X Q. 178. But you cannot say positively that it is the same as your testimony?

A. If I had the paper I could tell then.

X Q. 179. To whom did you give the paper?

A. Cannot say, the paper was in my possession; cannot say whether Mr. Wood took the paper.

X Q. 180. But it was either given to Mr. Wood or somebody for him, as you understood?

A. I presume so.

(Complainant's counsel asks the examiner to note that Mr. Wood is present, and he, the counsel, asks Mr. Wood and the defendant's counsel to produce the paper referred to.

Defendant's counsel says in answer that he, defendant's counsel, never heard of any such paper, until yesterday, then he asked Mr. Wood, sitting as now, where was that paper? To which Mr. Wood replied that it

was a memorandum taken by a young lawyer named Johnson, now dead, and that Mr. Wood didn't know where it was.

Mr. Wood states he has never seen it from the day it was taken; has tried to get it, but could not.)

X Q. 181. In that paper, in what year did you say you first saw that box?

A. That I cannot say.

X Q. 182. Do you state in that paper the time when the manufactured boxes were made?

A. It was the whole thing taken from our book, to the best of my memory.

X Q. 183. Did you ever sign a paper as a witness in relation to those fare-boxes?

A. Never to my knowledge.

197 X Q. 184. And if you were shown such a paper would it not surprise you?

A. It would; or else I would have a very bad memory.

X Q. 185. When did your father make the boxes for the Madison avenue line?

A. That I could not tell you.

X Q. 186. Was it after you returned from the Navy?

A. That I will not say, not knowing whether I was home at that time or not.

X Q. 187. Have you not already testified that on your return home you saw them on the Madison avenue line?

A. Most assuredly I did, but when they were made I cannot tell.

X Q. 188. What other line did you see the boxes on?

A. That I cannot say.

X Q. 189. What became of your father's patent for the box?

A. That I don't know.

X Q. 190. Did he sell it?

A. That I would not say—don't know.

X Q. 191. Did you ever hear him speak of his patent?

A. I did.

X Q. 192. What did he say?

A. That his patent, I believe, covered everything, and was all right; that he had got his patent back from Washington—his papers.

X Q. 193. Was that before you went to the Navy?

A. That I cannot say exactly.

X Q. 194. Did he say his patent was prior to any other fare-box patent?

A. I cannot say; he said he didn't want to have any trouble about patents, but that he was ahead, the first one; that all others in effect were copyists.

X Q. 195. Ahead in what way?

198 A. Prior—the first one in the field, I suppose, with his invention.

X Q. 196. Having the first patent you mean?

A. I won't say that, the first one that had the invention, made the thing—the first inventor you might call it.

X Q. 197. Did he consider this because he had a patent for it?

A. Not exactly; a man may invent years before he gets his patent.

X Q. 198. Did you ever know a Rinaldo Waters?

A. Not to my knowledge.

X Q. 199. You never signed a paper with such a man, did you?

A. Not to my knowledge.

X Q. 200. From whom did your father rent the store when you saw this model first?

A. That I cannot tell.

X Q. 201. When you saw the wooden model was there a lamp with it?

A. I believe the lamp was lying around.

X Q. 202. Were they attached together?

A. I believe not; I believe the lamp was made for the stage, to suit the place it was intended for.

X Q. 203. Who made the lamp?

A. I believe the lamp came from John Stephenson; it was made in his place.

X Q. 204. How do you know that?

A. By a bill found amongst father's papers.

X Q. 205. How do you know it was that particular lamp?

A. From that being the only kind of lamp used in our business.

X Q. 206. How do you know that particular lamp now on the table was the one that went with the model?

A. I didn't say that was the lamp; I said we found the bill; that lamp may be one that was made of the shape.

199 X Q. 207. How do you know the bill referred to that kind of lamp?

A. Being the only lamp we used in our business for this purpose.

X Q. 208. How many lamps did that bill call for?

A. That bill was one lamp, I believe.

X Q. 209. Where is that bill?

A. I believe it is in the possession of Mr. Wood, or the counsel representing him; the bill was handed to him.

(Counsel for complainant repeats the former request to produce, as to this bill.

Mr. Wood replies that the bill was given also to Mr. Johnson; that it was a bill of a lamp from Mr. Stephenson, in 1853; he thinks that Mr. Johnson attached the bill to the paper referred to.)

X Q. 210. What date did that bill contain?

A. I believe it was found among the papers of 1853.

X Q. 211. What date was on that bill?

A. That I cannot tell.

X Q. 212. Then, what you say is, that that bill was amongst the papers of 1853?

A. Yes, sir; father had a way of tying up all papers of a previous year, and putting them away in a little trunk.

X Q. 213. Please explain to us how that lamp would burn on a box?

A. I believe it was covered—enclosed.

X Q. 214. With what?

A. I suppose glass.

X Q. 215. Did you ever see a glass cover for the lamp on that identical box?

A. No; it was no use.

X Q. 216. What was the use, then, of having a lamp for that model box?

200 A. To work by, both in making and fitting.

X Q. 217. If that was so, why was not a covering put on?

A. I suppose the coverings were put on by those who put them in the stage; with that part I had nothing to do.

X Q. 218. Do you remember a sale by your father to Mr. Slawson?

A. I remember no sale or transfer; remember seeing Mr. Slawson in father's place.

X Q. 219. Did your father see considerable money in this box?

A. I don't know whether he looked so far or not; don't think our property was very great.

X Q. 220. Were you not a witness to a sale of your father's patent for this box to Mr. Slawson?

A. I was there, but don't know whether it was a sale, transfer, or what it was; know father had business with Mr. Slawson.

X Q. 221. When did your father cease making the boxes?

A. I believe it was after Mr. Slawson was there.

X Q. 222. Why did he cease?

A. That I don't know; cannot say.

X Q. 223. Did you never ask your father why?

A. No, sir.

X Q. 224. Was it not an interesting question for you to ask?

A. No, sir; father being a very peculiar man at times.

X Q. 225. What year did you see Mr. Slawson there.

A. Cannot say; recollect seeing him there.

X Q. 226. You say you saw the model on your father's desk?

A. On the desk or table; lying around, till he passed it to the bench.

X Q. 227. When did your father get the locks and keys for those boxes?

A. I don't know; cannot recollect.

201 X Q. 228. How did that model No. 1 become broken?

A. Moving round, knocking from place to place; on the shelf or on the floor.

X Q. 229. Did you ever see your father write?

A. Yes, sir.

X Q. 230. Look at paper now shown you, marked, for identification, "Exhibit Rodgers No. 1," and state if the signature James Rodgers thereto is in your father's handwriting.

A. That is his signature.

X Q. 231. Look at the name Anthony Rodgers thereon, and state if the same is not in your handwriting.

A. I believe it is.

X Q. 232. Look at paper now shown, marked "Exhibit Rodgers No. 2," and state if the signature James Rodgers thereto, is not your father's handwriting.

A. It is.

X Q. 233. The paper that you signed for Mr. Wood, do you swear to?

A. It was merely a memorandum, I believe; cannot say.

X Q. 234. You do not make affidavits frequently?

A. No, sir.

X Q. 235. When did you sign that paper?

A. I suppose about a year or so ago; cannot give the exact date.

X Q. 236. Have you ever been a witness or given an affidavit before this?

A. Cannot recollect of any; believe I was once, on the Niagara, in regard to a man's death there.

X Q. 237. How many years was your father located in the store where you saw the model first?

A. That is more than I can tell, being away and to and fro.

X Q. 238. Was the place where you first saw the model the place where you first saw Mr. Slawson?

A. I think so.

202 X Q. 239. Did your father endeavor to keep the model from the view of outsiders?

A. I believe he did, till he laid it on the bench for the workmen to work from; I believe that was his usual custom.

X Q. 240. Did your father live in the same place where the shop was?

A. No, sir; he did not.

X Q. 241. Where was he living when you first saw the model box?

A. East Tenth street.

X Q. 242. How soon after getting up the model box did he commence the manufacture of boxes?

A. That I don't know.

X Q. 243. Did you ever hear of the Consolidated Stage Line in New York?

A. I might have heard of it.

X Q. 244. Did your father ever sell any of those boxes to Stephenson?

A. That I cannot say.

X Q. 245. Can you name any person to whom he sold one box or more?

A. Murphy & Smith's line, I believe.

X Q. 246. That was after you came back from the Navy, was it not?

A. That I don't recollect.

X Q. 247. Which did you see first, the model box or the manufactured boxes?

A. The model box, I believe; think both were there; do not know.

X Q. 248. Name any other person to whom your father sold boxes.

A. I do not know, being away, as I said.

X Q. 249. Did not your father keep boxes on hand that he never sold?

A. He had some on hand after his business with Mr. Slawson was over, I believe.

X Q. 250. What has become of those boxes?

A. I cannot tell now; too long ago.

203 X Q. 251. Your father lost money in the undertaking, did he not?

A. I do not know.

X Q. 252. Are there not many things about that box—the construction and the business—that you now forget?

A. There are some things, of course; but this about the priority is brought to my mind by the papers.

X Q. 253. Do you recollect everything your father told you about the box?

A. I don't think I do.

X Q. 254. Did you ever read your father's patent for the box?

A. I might have—don't recollect.

X Q. 255. Do you not know that your father's box was an improvement on the box of another man, in that your father's chief feature was in having the back glass slide, in order that the money might be thrown into the drawer?

A. I do not know; I think different—from his own conversation—that he was the inventor of the money-box per se.

X Q. 256. Suppose that you saw a sworn statement of your father's, as I say?

A. I would believe that I was mistaken in what I say.

X Q. 257. Would you put as much reliance on his word as on his oath?

A. I would.

X Q. 258. Suppose his oath and his word differed, which would you believe?

A. I don't believe they would; I should think he had made a mistake on his word and corrected it afterwards.

X Q. 259. Where is Waldie now?

A. Dead; I have been present at his funeral.

X Q. 260. Was there a printed label on the manufactured boxes?

204 A. I don't recollect—a label of some kind, whether printed or painted I will not be sure.

X Q. 261. Who did your father's printing in those days?

A. That I don't know.

X Q. 262. Did the wooden model have a bell?

A. I believe not.

X Q. 263. Is the date you have given of the manufacture of these boxes taken from the books and papers of your father?

A. The testimony I have been giving? Yes.

X Q. 264. Did Murphy & Smith see the wooden model?

A. That I don't know.

X Q. 265. While your father was making the registers, was he making these boxes?

A. I don't recollect.

X Q. 266. Your recollection is not good on these things.

A. On some things.

X Q. 267. Did you consider it right or proper to consult your father's books to fix the date?

A. Yes, sir.

X Q. 268. Was not such evidence hearsay?

A. No, sir; knowing my father's handwriting.

X Q. 269. What is hearsay?

A. If you came and told me what somebody else told you.

X Q. 270. Did Mr. Wood tell you what date to get ahead of to screen himself from infringement?

A. He asked me to look as far back as we could.

X Q. 271. Didn't he say how far back Mr. Slawson could go?

A. Not to my recollection.

X Q. 272. Do you know whether your brother William signed a paper, too?

A. I don't know.

X Q. 273. Have you any reason to think he did?

A. None.

205 X Q. 274. Have you refreshed your memory by books or papers since you signed that paper?

A. I think not.

X Q. 275. When Mr. Wood asked you to come as a witness, did you ask him about the paper?

A. No, sir; I told him I would come.

X Q. 276. Do you know whether your testimony agrees with what you said in this paper?

A. I think it does, if my memory serves me right.

X Q. 277. Do you know anybody else that has signed a paper in reference to this matter?

A. I don't recollect.

X Q. 278. How is it you can recollect things 20 years back, and no' things that happened within a year or two?

A. I believe we are all troubled that way.

X Q. 279. What interest had you in looking up the paper and signing it for Mr. Wood?

A. The only interest was to do him a favor, as I would anybody.

X Q. 280. Did Mr. Wood tell you how he ascertained your knowledge of this matter?

A. I believe he said he heard tell we had made some of these things, and he hunted us up in the directory; something like that.

X Q. 281. Did your father buy only one lamp from Stephenson?

A. I wouldn't say how many he bought; I only went by this bill for this matter.

X Q. 282. How do you identify the lamp here present as the one referred to in that bill?

A. I didn't say it was the lamp referred to in that bill?

X Q. 283. When can you positively say that you saw this identical lamp for the first time?

A. Cannot positively say; it has been hurling about for years.

X Q. 284. What makes you connect the lamp referred to in the bill with the model fare-box?

206 A. Because the only lamp we had about the place.

X Q. 285. How do you know but the lamp referred to in the bill was for some other purpose?

A. Because Mr. Stephenson made the other lamps.

X Q. 286. How do you connect this bill?

A. Because it is the only bill we can find.

X Q. 287. Your father was quite intimate with Mr. Stephenson, was he not?

A. Yes, sir.

X Q. 288. Did not your father sell a good many registers to Mr. Stephenson?

A. I believe he did.

X Q. 289. Was it not likely that your father when he got up his model box, he would speak of it to Stephenson?

A. I don't know that.

X Q. 290. Did you ever see Stephenson at your father's place?
A. I don't recollect.
X Q. 291. Did you ever see one of your father's fare-boxes in stages?
A. I did.
X Q. 292. When?
A. I don't recollect.
X Q. 293. Did you examine it?
A. No, sir.
X Q. 294. Why not?
A. I was riding on top of the stage.
X Q. 295. Did you consider that box a success?
A. Indeed I did.
X Q. 296. Were they not taken off that line?
A. They are off, I know; I don't recollect their being taken off.
X Q. 297. Were your father's bills sold with the books?
A. Sold or destroyed.
X Q. 298. How soon after seeing the box did your father lay it on the bench for the workmen?
A. I don't know.
207 X Q. 299. You say the point of priority is brought to your mind by the papers; and those papers are destroyed, are they?
A. So I understand.
X Q. 300. Who told you so?
A. Some bills and papers I sold myself for old paper.
X Q. 301. What about the others?
A. Others that my sister needed to use as executrix were saved, they were only papers of later dates; the rest were destroyed as of too much bulk.
X Q. 302. Name the parties who worked for your father, when you saw the wooden model first?
A. Waldie, Williams, myself, and probably my brother.
X Q. 303. How soon after your father had a working model made did he commence to make the boxes?
A. I don't recollect whether before or after I saw the wooden box.
X Q. 304. Can you swear positively that your father made the boxes before the year 1857?
A. To the best of my recollection, I believe he did.
X Q. 305. Then you cannot swear on the point positively and unequivocally?
A. To the best of my recollection; I don't recollect, is the best I can say.
X Q. 306. Did you give this model No. 1 to Mr. Wood?
A. Either I or my brother.
X Q. 307. Did the wooden model have a bell?
A. No, sir.
X Q. 308. Did this model have a drawer when you saw it first?
A. I don't recollect; the main object of this model was to show the men the modus operandi, the slide and glasses.
X Q. 309. Did the wooden model have a lid like the manufactured ones?
A. I don't recollect that.
208 X Q. 310. What was Williams' name?
A. John.

X Q. 311. Where is he?

A. Dead; died in England, his stepson told me.

X Q. 312. What is his name?

A. I do not know; it is a good many years ago.

X Q. 313. Do you recollect distinctly that you saw such a lamp as this on the table with the model No. 1?

A. Don't recollect about the lamp.

X Q. 314. Can you swear positively and unequivocally that you saw the wooden model before 1857?

A. To the best of my knowledge and belief, I did.

X Q. 315. What is the difference to you, between positively and unequivocally, and to the best of your belief?

A. The best of my recollection.

X Q. 316. Do you mean that you do not recollect whether you saw the wooden model before 1857?

A. To the best of my recollection and belief, I did.

X Q. 317. Why can't you answer yes or no to my last question?

A. Because I cannot.

X Q. 318. Why not?

A. Because I cannot.

X Q. 319. That is, you cannot state positively that you saw the wooden model before 1857?

A. I have answered that question several times.

X Q. 320. You have answered to your own satisfaction, but not to the satisfaction of the court; please answer if you recollect positively that you saw the wooden model before 1857?

A. I don't recollect.

Redirect:

209 R. D. Q. 321. When you say you don't recollect that you saw the model before 1857, to the best of your knowledge, recollection, and belief, have you any doubt in your mind but that you did see it before 1857, as you have previously testified?

(Objected to as seeking to make the witness take back what he has just stated, and as leading.)

A. I have no doubt in the world that I saw boxes, whether that identical one I cannot say.

R. D. Q. 322. Did you mean by your last answer to the complainant's last question that any doubt you had was in reference to the identical box here present?

A. That wasn't my idea.

Recross:

R. X Q. 323. Is not the wooden model that you say you could not recollect that you saw it before 1857 the one you have been talking about the last two days?

A. That may be the model.

R. X Q. 324. Do you swear positively and unequivocally that you saw a model like the one No. 1 before the year 1857?

A. I believe I did.

R. X Q. 325. Question repeated.

A. I saw a perfect model of the car-box before the year 1857, to the best of my knowledge and recollection.

R. X Q. 326. Are you as sure of that as you are now present in this room?

A. No; that is past.

R. X Q. 327. Are you as sure that you saw such a model before 1857 as you are that you were here yesterday?

A. I think there is a great difference between 20 or 30 years ago and 24 hours.

210 R. X Q. 328. And therefore your recollection may be mistaken as to what happened 20 or 30 years ago.

A. It might; we are all liable to be mistaken.

ANTHONY ROGERS.

Taken and reduced to writing, and by the witness subscribed and sworn to before me this 13th day of February, 1879.

B. LINCOLN BENEDICT,
Special Examiner.

JAMES KIRKLAND, called as a witness and sworn, deposes and says:

Examined by Mr. CROOKE:

Q. 1. Where do you live?

A. 38 South 6th street, Williamsburg.

Q. 2. What is your business?

A. Worked in iron foundry; now on the R. R. in Franklin avenue.

Q. 3. Did you ever see this before?

(Exhibit shown.)

A. Yes, sir.

Q. 4. When did you first see it?

A. Last week.

Q. 5. Did you ever see anything just like it?

(Complainant's counsel objects to the giving of any evidence by this witness tending to show an anticipation of either of the inventions sued on, on the ground that his name, residence, and place of alleged use, have not been set up in the answer.)

211 A. Yes, sir.

Q. 6. Where had you seen it in use?

(Same objection.)

A. Saw it aboard of a packet ship in New York.

Q. 7. How long ago?

(Same objection.)

A. 1855.

Q. 8. What packet?

(Same objection.)

A. Black Ball line; I don't know what ship.

Q. 9. What was it used for?

(Same objection.)

A. The steward was there, Mr. Lawrence; he had it on the table for passengers to put money into; they used to drop money in it.

Cross-examination suspended until February 14th, 1879, at 11 a. m.

FEBRUARY 14TH, 1879.

Hearing resumed. Same appearances.

(Complainant's counsel further objects to the giving of any evidence by this witness tending to show an anticipation of either of the inventions sued on by Lawrence or any person or concern referred to by the witness, on the ground that the place of residence of said Lau-
212 rence, his name and the place where he is alleged to have had the anticipation, have not been set up in the answer, and the same objection is made to any other person or concern named by this witness on the same ground.)

Cross-examination of Kirkland de bene esse:

X Q. 10. Of what country are you a native?
A. Born in Ireland, county of Armagh.
X Q. 11. When?
A. A good many years ago; near 60.
X Q. 12. Do you know the year?
A. I do not, sir.
X Q. 13. Did you ever know?
A. Not that I remember.
X Q. 14. When did you leave there?
A. In 1837, I believe it was.
X Q. 15. Where did you go from there?
A. Went to Liverpool.
X Q. 16. How long did you stay?
A. A little over a week.
X Q. 17. Where did you go from Liverpool?
A. Went on board a vessel.
X Q. 18. To where?
A. To come to New York.
X Q. 19. What was her name?
A. The Fairfield.
X Q. 20. How much passage money did you pay?
A. I don't remember.
X Q. 21. How long were you on the passage?
A. 28 days.
X Q. 22. What date did you sail from Liverpool?
A. I don't remember the day of the month.
X Q. 23. When you landed in New York, what did you do?
A. I went to the country.
X Q. 24. Whereabouts?
A. Up the North River to Ulster Co.—Kingston.
213 X Q. 25. What did you there?
A. Worked on a farm.
X Q. 26. For whom?
A. A man named Richard Dallin.
X Q. 27. How long did you work?
A. Two years, I believe.
X Q. 28. What did you do then?
A. Came back to the city, Williamsburg.
X Q. 29. What work did you then do?

A. Worked in an iron foundry, at the foot of South 6th street, owned by Mr. Wood—Mr. Loftus Wood.

X Q. 30. How long did you work for Mr. Wood there?

A. About 14 years.

X Q. 31. Were you a laboring man?

A. Ran a steam engine and smelted iron.

X Q. 32. Whose engine was it?

A. Can't tell whose manufacture.

X Q. 33. Can you read?

A. I can—there was no name on it or number that I could see.

X Q. 34. High or low pressure engine?

A. We didn't have the boiler there—don't know what you mean by it.

X Q. 35. Was the steam from that engine used over again or allowed escape, which?

A. It was allowed to escape.

X Q. 36. After leaving the foundry where did you go to work?

A. Went to New York.

X Q. 37. For whom?

A. For Mr. Wood.

X Q. 38. At what kind of work?

A. In his store.

X Q. 39. Where was that store and what did you do?

A. 237 Water street.

X Q. 40. How long did you work in that place?

A. Until he left it—sold out.

214 X Q. 41. How long was that?

A. I don't remember—8 or 10 years, I believe.

X Q. 42. What kind of a store was it?

A. What is called ship stoves, caboose stoves.

X Q. 43. Did you know Mr. Wood in the old country?

A. I did—had seen him there.

X Q. 44. When you were working for Mr. Wood in that store where did you live?

A. In Williamsburg, 38 South 6th street, where I live now.

X Q. 45. When you left Mr. Wood's employ in the store, what did you do?

A. Worked for Mr. Curran, in the same place, for a year or so—Patrick Curran.

X Q, 46. What did you do then?

A. Came to work for the Franklin Avenue R. R. Company.

X Q. 47. For Mr. Wood?

A. For the company; he belongs to the company, I believe.

X Q. 48. Was Mr. Wood connected with that company when you went there?

A. Yes, sir.

X Q. 49. Did he give you the job on the road?

A. By his orders I got it.

X Q. 50. What kind of work did you do on the road?

A. Repairs, shifting rails, putting down timber.

X Q. 51. And have you been on that road all the time since?

A. Pretty much all the time; work there yet, when I'm to work.

X Q. 52. Can you write?

A. Yes, sir.

X Q. 53. Was it not an important event in your life when you left Liverpool?

A. Certainly it was.

X Q. 54. And as important as it was, can you tell us positively the year in which you left Ireland?

215 A. I think it was in 1837; I'll not be certain.

X Q. 55. Have you any objection to stating who furnished you the means to come to this country?

A. Not in the least; I furnished the means myself.

X Q. 56. While in Ireland or Liverpool, did you receive any letters from Mr. Wood?

A. No, sir.

X Q. 57. Did you go to school in Ireland?

A. Yes, sir.

X Q. 58. For how long?

A. For ten or twelve years.

X Q. 59. Who was the teacher?

A. I have been at 3 or 4 schools; the last man's name was Mr. Hughes—Thomas Hughes.

X Q. 60. Give us the name of the others.

A. James Todd; I do not remember the other men's names.

X Q. 61. Are you a citizen of the United States?

A. I am, sir.

X Q. 62. When did you become such?

A. In 1852, I believe it was.

X Q. 63. In what court were you naturalized?

A. In New York, in the city hall.

X Q. 64. Can you tell what court?

A. I don't remember.

X Q. 65. Who were the witnesses to testify to your qualification?

A. My brother; nobody else.

X Q. 66. Had you previously declared your intention of becoming a citizen?

A. I only went once; didn't go the second time.

X Q. 67. What I mean is, did you declare your intention to become a citizen?

A. I intended to when I came to this country.

X Q. 68. What I mean is, did you declare your intention by means of an oath or writing?

A. By an oath.

X Q. 69. When and where was that oath taken?

A. In the city hall, New York.

216 X Q. 70. When?

A. I believe it was in 1852.

X Q. 71. Before 1852, had you by an oath or writing declared your intention of becoming a citizen?

A. I think not.

X Q. 72. That is, you don't recollect?

A. I think not.

X Q. 73. Do you recollect whether you did or not?
A. I think not.
X Q. 74. When did you know you were to be a witness in this case?
A. Last week.
X Q. 75. Was that the first time?
A. Yes, sir.
X Q. 76. Who spoke to you about it?
A. Mr. Wood.
X Q. 77. What did he say to you?
A. He asked me if I remembered a box like that (showing me Exhibit 6); asked me if I remembered seeing it.
X Q. 78. What did you tell him?
A. I told him I did; remembered one that worked on the same principle as that.
X Q. 79. Please explain what principle you mean.
A. The same as that is.
X Q. 80. Please explain what principle.
A. I carried a box off a ship to his store to be repaired; it was broke. The table where the money fell was out of order; wouldn't work.
X Q. 81. I ask you to explain the principle you speak of?
A. The box was the same as that; a hole in the top to drop money in, glasses on side of it, all around, a drawer in the bottom, and a lock on the drawer.
X Q. 82. When Mr. Wood asked you this, did he show you the model?
A. Showed me that; such a model as that is.
X Q. 83. What was that old box made of?
A. Tin and iron.
217 X Q. 84. How heavy was it?
A. I didn't weigh it; cannot tell.
X Q. 85. Did you carry it in your hand?
A. I did.
X Q. 86. Was it all tin and iron?
A. Yes, sir.
X Q. 87. Where was the ship lying when you took it?
A. Foot of Beekman street in the river.
X Q. 88. Who gave it to you?
A. Mr. George Lawrence.
X Q. 89. What was done with it after having it repaired?
A. I took it back to the ship the same day it was repaired.
X Q. 90. What workmen did the repairs?
A. We had 4 or 5 tinmen at work, can't say who did the repairs; I left it in the tin shop.
X Q. 91. Was it repaired in the tin shop?
A. Yes, sir.
X Q. 92. Who worked in the shop at that time?
A. The foreman's name was James Wright.
X Q. 93. Where did he live?
A. In Williamsburgh.
X Q. 94. Where is he now?
A. He is dead.
X Q. 95. How do you know that?

A. I saw him dead and buried; went to his funeral.
X Q. 96. When did he die?
A. I think May 8th, 1873.
X Q. 97. Was he any relation to you?
A. No, sir.
X Q. 98. Who else worked in the tin shop?
A. I don't remember their names.
X Q. 99. When you brought the box there, what did you do?
A. I left it in the tin shop.
X Q. 100. Did you say what was to be done with it?
218 A. I said it was to be repaired and left it on the bench.
X Q. 101. Who did you tell that to?
A. The foreman, Mr. Wright.
X Q. 102. What did you do with the box when it was repaired?
A. Took it to the ship again; left it in the cabin.
X Q. 103. Did you give it to anybody?
A. I did.
X Q. 104. To whom?
A. To George Lawrence, the steward in charge of the vessel.
X Q. 105. Did you collect any money for the repairs?
A. I did not.
X Q. 106. Who owned the place where the thing was repaired?
A. Mr. Wood.
X Q. 107. What was the name of that vessel?
A. Don't remember the name now.
X Q. 108. How do you know what that box was used for?
A. I saw it used; saw passengers drop money in it in the cabin at different times.
X Q. 109. What were they putting money in there for?
A. I believe for the steward; the passengers used to give him money.
X Q. 110. Why did they give the steward money?
A. I don't know.
X Q. 111. Please describe particularly and in detail the box that was repaired?
A. The box was the same as that; a little larger and wider at bottom; of tin and iron; glass upon the sides of it near the top, pretty near the top on the sides of it all round; a drawer in the bottom with lock and key in it.
X Q. 112. How do you know there was a key there?
A. I saw it opened—unlocked.
X Q. 113. An iron or brass key?
219 A. Cannot say whether iron or brass.
X Q. 114. When the money was put in that box, where would it go?
A. Fall on a table; lay there some time until a wire was pulled to let it fall down.
X Q. 115. I notice on the top of this box, Exhibit No. 6, a piece of glass; was there such a piece of glass on the box that was repaired?
A. I believe there was.
X Q. 116. Do you swear there was?
A. I will not swear there was; I believe there was.

X Q. 117. I notice in this same box, Exhibit No. 6, a piece of glass inside and running obliquely; was there such a piece of glass so arranged in the repaired box?

A. It was more straight up than that; there was such a piece.

X Q. 118. Do you swear there was?

A. Yes, sir.

X Q. 119. What was that inside piece for?

A. So that the money would slide down on the table.

X Q. 120. In part of the box—through what part of the box would the money be placed?

A. Upon the top and fall on the table.

X Q. 121. What part in the top of the box?

A. In a hole in the top, and then it would fall on the table.

X Q. 122. How many glass sides were on that repaired box?

A. There were four.

X Q. 123. What was what you call the table made of?

A. It was of tin.

X Q. 124. Was the money put in the middle or side of the box?

A. It was put in the top.

X Q. 125. Where was the hole?

A. In front—on the top.

220 X Q. 126. What kind of glass was in that box?

A. Clear glass.

X Q. 127. When did you see the passengers put money in that box?

A. Different times.

X Q. 128. How came you to see it?

A. I would be aboard of ships some days, carrying things on and off to have them repaired, and would be in the cabin.

X Q. 129. How did passengers happen to be in the cabin when she was not sailing?

A. Coming in and out.

X Q. 130. Why then should the passengers give the steward money?

A. I don't know what they gave it for.

X Q. 131. How do you know they were passengers?

A. The steward said they were passengers.

X Q. 132. In what year did you see this?

A. 1855.

X Q. 133. How do you fix that date?

A. In August, 1855.

X Q. 134. How do you know?

A. I went to work in the store in August, 1855.

X Q. 135. What part of August?

A. About the 20th I think it was.

X Q. 136. How do you know that was the 20th?

A. I know the foundry burned down on the 18th, and I went to work in the store a couple of days after.

X Q. 137. How do you know it was the year 1855?

A. I know it very well.

X Q. 138. Has anybody told you it?

A. No, sir; how do I know this is 1879?

X Q. 139. Is there any circumstance which makes you know it was 1855?

A. No, sir.

X Q. 140. Can you rely on your memory for saying it was 1855?

A. I am certain—sure it was.

221 X Q. 141. Why may it not have been 1856?

A. It was not, sir.

X Q. 142. Why not?

A. It was not; it was 1855.

X Q. 143. Please give us any circumstance or fact that enables you to state it was 1855.

A. I know it was; the foundry burned down on the 18th of August; I am pretty sure it was in 1855.

X Q. 144. How do you know the foundry was burned in 1855?

A. I know it was; I saw it burned.

X Q. 145. How do you know it was 1855? I don't doubt you saw the foundry burned; what I want to know is, how it was the year 1855 above any other year.

A. Very well, sir; I know one year from another; it was the year 1855.

X Q. 146. Which was the more important to you, your leaving Ireland or the foundry burning?

A. It was no loss to me, nor gain.

X Q. 147. Repeated.

A. Leaving Ireland; I came to make a betterment, if I could.

X Q. 148. How is it, then, you can recollect the time of the burning of the foundry and cannot recollect the year you left Ireland?

A. Because it is much longer.

X Q. 149. Is that the only reason?

A. That is the only reason I can give.

X Q. 150. Is there any circumstance that enables you to say it was the year 1855 when you saw the repaired box?

A. Yes, sir; I went to work in the store.

X Q. 151. When did you go to work in the store?

A. The 20th of August, 1855.

X Q. 152. How do you fix that date?

A. I went two days after the foundry burned down.

X Q. 153. Is there any fact or circumstance that enables you to state that it was 1855 that the foundry burned?

222 A. I don't know any, but that would be the year.

X Q. 154. Then there's no fact or circumstance that enables you to say that the foundry was burned in 1855?

A. I have answered that question; I say I don't know of any unless it be the date of the year.

X Q. 155. How long after you went to work at the store was it before you saw the box?

A. Two or three days, I think it was.

X Q. 156. Do you swear it was two or three days?

A. I think it was; am sure of it.

X Q. 157. Then you do not swear it was?

A. It was inside of a week, I am sure; that was the first work I did, to go on board of these vessels for repairs.

X Q. 158. What was the very first work you did at that store?

A. Working in the blacksmith shop.

X Q. 117. I notice in this same box, Exhibit No. 6, a piece of glass inside and running obliquely; was there such a piece of glass so arranged in the repaired box?

A. It was more straight up than that; there was such a piece.

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X Q. 156. Do you swear it was two or three days?

A. I think it was; am sure of it.

X Q. 157. Then you do not swear it was?

A. It was inside of a week, I am sure; that was the first work I did, to go on board of these vessels for repairs.

X Q. 158. What was the very first work you did at that store?

A. Working in the blacksmith shop.

X Q. 159. How many hours did you work?
A. Sometimes only two hours in the day; sometimes half the day.
X Q. 160. What wages were you getting?
A. Nine dollars a week.
X Q. 161. Where were you living when you went to work at the store?
A. In Williamsburgh.
X Q. 162. Give us the street and number.
A. 38 South Sixth street.
X Q. 163. Do you live there yet?
A. Yes, sir.
X Q. 164. Do you own the house?
A. No, sir.
X Q. 165. Who was your landlord?
A. Mr. Wood—Mr. Loftus Wood.
X Q. 166. Did he ever live in that house?
A. No, sir.
X Q. 167. How long have you known Mr. Wood in this country?
A. Ever since I have been in the country.
X Q. 168. You and he have been rather intimate?
223 A. I have been at work for him and the company.
X Q. 169. And he has been your landlord, has he not?
A. Yes, sir; and is now.
X Q. 170. Have you any children?
A. My wife has quite a good many.
X Q. 171. Are they not yours?
A. I can't tell whether they are or not; I have to keep them in clothes.
X Q. 172. But you recognize them as yours?
A. I do; and am willing to do it, too.
X Q. 173. How many have you?
A. We have got 12 now at present alive.
X Q. 174. How many dead?
A. Five.
X Q. 175. Where were those five born? Give us the year.
A. I cannot do that.
X Q. 176. Why not?
A. I don't remember.
X Q. 177. When did they die, then?
A. The last of them died four years ago.
X Q. 178. Go on with the rest.
A. I don't remember just when; one has been dead over 20 years—in 1852.
X Q. 179. When you went to work in Mr. Wood's store how much did you pay him for your house?
A. Seven dollars a month.
X Q. 180. Were you married in this country?
A. Yes, sir; twenty-two years ago, in Williamsburgh; I was married the first time in Ireland.
X Q. 181. Give us the month and year.
A. Twenty-two years ago, in November, I think it was.
X Q. 182. Can you give the year?

A. I don't remember the year.

X Q. 183. What clergyman performed the ceremony?

A. Samuel Haskin.

224 X Q. 184. In what year were you married in Ireland?

A. I don't remember exactly, about 1835, I think.

X Q. 185. What clergyman married you in Ireland?

A. His name was Beresford—his Christian name I don't know—rector of the church.

X Q. 186. Did you know Mr. Wood, to speak to, in Ireland?

A. Yes, sir.

X Q. 187. What nationality was Lawrence?

A. A kind of a colored man—a mulatto.

X Q. 188. When did you see him last?

A. I have not seen him in 27 years; the last time I saw him was down at the Bowling Green, in an office there.

X Q. 189. How many years ago is it when you handed him the repaired box?

A. It was in 1855 I gave it to him.

X Q. 190. You did hand him the box in 1855?

A. I gave it to him in the ship.

X Q. 191. Did you see him after that time?

A. I have.

X Q. 192. How many years is it since you gave him the repaired box? I want to know the number of years.

A. Twenty-four years.

X Q. 193. Have you not just said a moment ago that it is 27 years ago since you saw Mr. Lawrence last?

A. No, sir.

X Q. 194. How many years is it since you saw him last?

A. I think it is seven years.

(Respondent's counsel asks that the witness be allowed to put on record that he did not intend to say he had not seen Lawrence "in 27 years," but "in seven years.")

225 X Q. 195. How came you then to say "27 years?"

A. I said inside of seven years.

X Q. 196. When you saw Lawrence last, did you speak to him?

A. I did.

X Q. 197. Did he say anything about this box?

A. No, sir.

X Q. 198. What was his position on board the vessel?

A. He was called a port steward.

X Q. 199. What had he to do with the passengers?

A. He would be there showing them their berths, before they go to sea.

X Q. 200. Did the passengers give him money for favors shown them?

A. I don't know what they gave it to him for; I used to see them put money in the box many times.

X Q. 201. When you landed in New York from Liverpool, at what dock did you land?

A. I don't remember the dock; under the Battery, or pretty near it.

X Q. 202. Who was captain of the Fairfield?

A. His name was Thompson.

X Q. 203. When you carried the box, did you carry it in your arms or in one hand?

A. I carried it under my arm.

X Q. 204. Did you have a cover on it?

A. No, sir.

X Q. 205. Was it painted?

A. It was all varnished, dark color.

X Q. 206. All varnished?

A. Varnished or painted a dark color.

X Q. 207. Was the glass painted?

A. No, sir.

X Q. 208. Then it was not all varnished?

A. The glass was not varnished or painted; it looked bright.

X Q. 209. What kind of a lock was on the drawer?

A. I don't know.

X Q. 210. Was there a lock?

226 A. There was.

X Q. 211. Did you examine the lock?

A. I did not.

X Q. 212. What kind of a key had it?

A. I don't know whether brass or iron.

X Q. 213. Was it a flat or round key?

A. I don't know; never had it in my hand.

X Q. 214. Did you see the drawer locked or unlocked?

A. I did.

X Q. 215. Who did it?

A. George Lawrence.

X Q. 216. Why did he do it?

A. To take money out.

X Q. 217. Was there money in the drawer?

A. There was.

X Q. 218. Did you carry the key to the tin shop?

A. Didn't see any key; it wasn't locked.

X Q. 219. How do you know the drawer was not locked?

A. I know it wasn't; the drawer dropped out on the dock, and I picked it up and put it in again.

X Q. 220. What time of the day did you bring the box from the ship?

A. Forepart of the day.

X Q. 221. What time did you bring it back?

A. In the afternoon.

X Q. 222. Did you see the box being repaired?

A. I did not; saw it was repaired; did not see it done.

X Q. 223. How were the parts of that box put together?

A. Soldered together.

X Q. 224. Do you know that?

A. I do.

X Q. 225. How did you come to see it was soldered?

A. I saw one side was loose, and I saw the same side was soldered up again.

227 X Q. 226. What makes you think it was 1837 you arrived here?

A. I think it was that year; would not be sure.

X Q. 227. What part of the year?

A. The month of May.

X Q. 228. Do you recollect the names of any persons who came with you on that voyage?

A. I do; my brother John; I don't remember any others that I knew but my wife.

X Q. 229. Where is that brother?

A. He is dead.

X Q. 230. When did your first wife die?

A. August 21st, 1852.

X Q. 231. In what cemetery buried?

A. Greenwood.

X Q. 232. Can you not tell positively how long you worked at Kingston?

A. No, sir.

X Q. 233. Were you there at least two years?

A. I believe I was, or about that time.

X Q. 234. Do you remember the name of anybody who used to help Mr. Lawrence?

A. I do not.

X Q. 235. Do you now remember the name of the ship that you saw the box on?

A. I do not.

X Q. 236. What kind of a ship was she?

A. What they called a packet ship.

X Q. 237. Who was her captain?

A. I don't know.

X Q. 238. What makes you say it was the Black Ball line?

A. That is the line Mr. Lawrence said he worked for.

X Q. 239. Was Lawrence married at the time?

A. I don't know.

X Q. 240. Did you examine the box closely?

A. Closely.

X Q. 241. How many passengers were on the Fairfield?

228 A. That I don't know.

X Q. 242. How soon after leaving Kingston did you work for Mr. Wood at his foundry?

A. As soon as I came down to the city—two or three days after I came down.

X Q. 243. How long did you work for Mr. Wood at the foundry?

A. 12 or 14 years.

X Q. 244. Are you sure it was not more than 14 years?

A. It might have been nearer 20; I am sure I worked there 14 years.

X Q. 245. How many years can you swear positively that you worked at the foundry for Mr. Wood?

A. I cannot swear to it.

X Q. 246. Can you tell what year you went to the foundry?

A. No, sir.

X Q. 247. Can you tell about what year?

A. I don't remember.

X Q. 248. Have you looked at any books or papers to get at the date when you saw the box?

A. No, sir.

X Q. 249. Has anybody told you the fire was in 1855?

A. No, sir.

X Q. 250. What year did you tell Mr. Wood you saw the box in?

A. In 1855.

X Q. 251. What did he say then?

A. I did not tell Mr. Wood what year I saw the box; I misunderstood the last question.

X Q. 252. What did Mr. Wood ask you last week?

A. If I remembered seeing a box similar to that one.

X Q. 253. What did you say?

A. I told him I did.

X Q. 254. What else did he ask?

A. That is all he asked me.

229 X Q. 255. You are sure of this?

A. Yes, sir.

X Q. 256. Then you told nobody until you were examined that you had seen the box in 1855?

A. No, sir.

X Q. 257. You are sure of this?

A. Yes, sir.

X Q. 258. Now, Mr. Kirkland, did you not tell General Crooke or Mr. Wood yesterday, or within a week, that you had seen the box in 1855?

A. I have told Mr. Wood, of course, yesterday.

X Q. 259. Then you did tell Mr. Wood, within a week, and before you were examined, that you had seen the box in 1855?

A. I didn't tell him I saw the box made.

X Q. 260. I want a direct answer. (Question repeated.)

A. Yes, sir.

X Q. 261. Did you tell anybody else within a week, and before you were examined yesterday, that you had seen the box in 1855?

A. No, sir; I think not.

X Q. 262. Do you swear not?

A. I don't think I did.

X Q. 263. I ask you again, do you swear you did not, and I request yes or no?

A. Not to my knowledge.

X Q. 264. Did you not tell General Crooke within a week, and before you were examined yesterday, that you had seen the box in 1855?

A. I don't remember it.

X Q. 265. Do you swear you did not?

A. I don't remember that I did.

X Q. 266. Who else worked with you on the Dallon farm?

A. Three or four different men.

X Q. 267. Give us their names.

A. James Taylor, William Allen; of the other men I don't remember their names.

230 X Q. 268. Please give us the names of men who were working in Mr. Wood's store when you went there first.

A. James Wright, John Wright, Alexander McAllister, Francis Lynch, two or three others; I don't remember their names.

X Q. 269. Where is John Wright?

A. He is dead.

X Q. 270. Where is McAlister?

A. I don't know.

X Q. 271. Where did he live?

A. In Brooklyn.

X Q. 272. Where is Lynch?

A. I don't know.

X Q. 273. Where did he live?

A. He lived in New York.

X Q. 274. What day of the week did you go into Mr. Wood's store?

A. I don't remember the day of the week.

X Q. 275. What day was the fire on?

A. It was in the night.

X Q. 276. I suppose it was—the night of what day?

A. I don't remember.

X Q. 277. How do you fix the 18th?

A. I know it was.

X Q. 278. How do you know it was?

A. By the insurance companies coming there.

X Q. 279. How do you know the insurance companies were there on the 18th?

A. I saw three or four there the day after the fire—different men.

X Q. 280. What I wish to know is, how do you know that it was that time?

A. I saw three or four of them; they had papers there.

X Q. 281. You mean that your memory tells you this?

A. Yes, sir.

X Q. 282. Do you swear that Mr. Wood has not told you within a week that the fire was in 1855?

A. No, sir; I think not.

231 X Q. 283. Question repeated.

A. I think not, sir.

X Q. 284. I request a direct answer to this question—do you swear that Mr. Wood within a week has not told you that the fire was in 1855?

A. I think not, sir.

X Q. 285. That is the best answer you can give?

A. Yes, sir.

X Q. 286. When you brought the box from the ship to the shop, how did you carry it?

A. Under my arm.

X Q. 287. And how did you carry it from the shop to the ship?

A. Under my arm.

X Q. 288. Then you did not carry it in your hands?

A. Could not carry it under my arm without having the use of my hands.

Answer objected to by counsel for complainant, as irresponsive.)

X Q. 289. Question repeated.

A. I carried it under my arm.

X Q. 290. I insist on a direct answer, yes or no (question repeated).

A. I carried it under my arm.

X Q. 291. Do you refuse to answer the last question?

A. I do not.

X Q. 292. Then please answer me whether you carried it in your hands?

A. I carried it under my arm.

X Q. 293. You have not answered my question; you may have carried it under your arm and you may not; I do not ask you if you carried it under your arm, but I ask you if you carried it in your hands?

A. I carried it under my arm.

X Q. Do you refuse to give any better answer?

A. That is the fairest I can give you.

X Q. 295. Have you not sworn to-day, that you carried it in your hands?

232 A. I think not.

X Q. 296. I ask you positively whether you have or not?

A. I think not.

X Q. 297. If you did say so, was it the truth?

A. I think I did not tell you so.

(Answer objected to as irresponsive.)

X Q. 298. If you did say to-day on the stand that you carried it in your hands, is that the truth?

A. I think I did not say that I carried it in my hands.

(Answer objected to as irresponsive, and the examiner is requested to admonish the witness that he has not answered the pending question.)

X Q. 299. (Repeated.)

A. (Same answer—witness explains that he meant to say that he had it in his hand before he put it under his arm.)

X Q. 300. Can you swear that you have not said to-day that you carried it in your hands?

A. No, sir; I might have said so.

X Q. 301. Do you swear that you have been told by no one within a week, that it was a few days after you went to the store, that you carried the box to be repaired?

A. No, sir; I have not been told by any one.

X Q. 302. Then you swear you have not been told?

A. I have not.

X Q. 303. Then you swear that?

A. I do.

X Q. 304. Have you within a week asked anybody the date of the fire?

A. No, sir.

X Q. 305. Do you remember under which arm you carried the box?

233 A. I do; under my left arm.

X Q. 306. Did you carry it under the same arm going and coming?

A. I believe I did; the other was sore.

X Q. 307. I don't ask you what you believe; I ask you if you carried the box both ways under the one arm?

A. I did, sir.

X Q. 308. You are sure of this?

A. I am.

X Q. 309. If you are sure of this why did you say you believed you did?

A. I know I did.

X Q. 310. How do you know?

A. My hand was sore, and I couldn't use it so well as the other.

X Q. 311. What was the matter with it?

A. Got it cut.

X Q. 312. Was it badly damaged?

A. So that I couldn't use it very well; had it sewed in two or three places by the doctor.

X Q. 313. How did your hand get injured?

A. By a piece of zinc I was carrying.

X Q. 314. Where?

A. At Mr. Wood's place.

X Q. 315. What doctor dressed your hand?

A. Doctor Lorette; he lives in Williamsburgh.

X Q. 316. Was he the only doctor that attended to it?

A. He was.

X Q. 317. How long before you carried the box did you meet with the accident?

A. Two or three days.

X Q. 318. Before the fire?

A. No, sir.

X Q. 319. Were you laid up at the house from this accident?

A. No, sir.

X Q. 320. Can you tell when your twelve living children were born?

234 A. Not exactly; can tell when some of them were.

X Q. 321. Give us the dates you remember.

A. Can't give any certain time for them.

X Q. 322. Is there any circumstance or occurrence, other than the foundry fire, enables you to place the date in 1855 when you carried the box?

A. No more than my memory.

X Q. 323. Who sent you to the ship for the box?

A. An order from the foreman or book-keeper.

X Q. 324. Give us the name?

A. James Wright was the foreman; he gave me the order; I don't know who gave it to him.

X Q. 325. Who is this book-keeper?

A. I don't remember his name exactly; I think it was a Mr. McLoney.

X Q. 326. Where did he live then?

A. In Mr. Wood's place.

X Q. 327. What did the foreman tell you to do?

A. To go down to the ship and fetch up something to be repaired.

X Q. 328. Do you know how many horse power the engine had that you ran for Mr. Wood?

A. I do not.

X Q. 329. Had you an engineer's license?

A. I had not; none was required.

(Last part of the answer objected to.)

X Q. 330. Did you consider yourself a fit engineer?

A. I considered myself fit enough for that; to run the engine and keep it in order.

X Q. 331. Did that engine have a governor?

A. Yes, sir.

X Q. 332. A fly-wheel?

A. Yes, sir.

X Q. 333. How often was the boiler cleaned?

A. I never cleaned the boiler there.

X Q. 334. Who cleaned the boiler there?

A. I blew the water out of it; there was no way to get in and clean it.

235 X Q. 335. Was the engine ever cleaned?

A. Yes, sir.

X Q. 336. How many times did you see that box in the vessel?

A. A good many times.

X Q. 337. On the same vessel?

A. On different vessels; didn't always keep it on the same vessel.

X Q. 338. Do you mean that the port steward, Mr. Lawrence, as soon as the vessel he had the box on would go away, would remove it and place it in the next vessel that arrived?

A. That is what he had it for—to place from one vessel to another.

X Q. 339. Now, wasn't that box made as follows: A box with glass on front and back, and a hole in the top, into which to place the money?

A. Glass on four sides of it and hole in the top.

X Q. 340. And that is all?

A. Glass on four sides and a hole in the top and drawer in the bottom.

X Q. 341. And that is all?

A. A table and a wire to pull it back and forward, to let the money drop down.

X Q. 342. When did you see that box last?

A. I haven't seen it, I believe, in 20 years.

X Q. 343. Yet we ask you, as an honest, candid witness, whether you could have described that box a year ago, without having presented to your gaze and inspection this model, Exhibit 6?

A. Yes, sir; I could have described it.

X Q. 344. Give the time you last saw a box on the vessel, and the time of Mr. Wood's showing you this model last week; did you ever see a box like this model?

A. I have seen money boxes in the cars.

X Q. 345. When—I refer to a box constructed as this model is, in parts and form?

A. Last week on a car.

X Q. 346. Did you see one six months ago?

236 A. Yes, sir.

X Q. 347. Did you see one a year ago?

A. Yes, sir; I did.

X Q. 348. Did you see one eighteen months ago?

A. Yes, sir.

X Q. 349. Where?

A. On a car; on a Franklin avenue railroad car.

X Q. 350. When was the first time you saw such a box after seeing it on the vessel the last time?

A. I don't remember how long ago it is; I saw it first on the car may be a year and a half or two years ago.

X Q. 351. When you first saw the box on the car did you tell anybody you had seen the like before?

A. No, sir.

X Q. 352. Did you examine the box closely in the car?

A. No, sir; only looked at it.

X Q. 353. Did that recall to you the box in the ship?

A. No, sir; I can't say that it did.

X Q. 354. If you had seen that on the ship wouldn't your seeing the box on the car 20 years afterward recall the old ship-box?

A. No, sir; I didn't pay any attention to it.

X Q. 355. Do you mean that you had forgotten about the ship box?

A. No, sir; I didn't forget about it at all.

X Q. 356. Look at the box Exhibit 5, and say if it is not like the box you first saw on the car?

A. Yes, sir.

X Q. 357. When you first saw that box did it not strike you as an absurdity or strange that you should see a box like the old ship box, marked "Patent, 1877," after the lapse of twenty years?

A. I didn't think anything about it.

X Q. 358. Do you swear now that in 1855 you saw on the ship a money box just like this Exhibit 5, excepting in size?

237 A. No, sir; it was not exactly the same; the hole was on the top in the ship's box; it was straighter up; the upper part of the drawer was the same; in the bottom, drop the same; glasses all around.

X Q. 359. You are sure of that?

A. Yes, sir.

X. Q. 360. Was there a glass plate on top, as in Exhibtt 5?

A. I am not sure as there was.

X Q. 361. How can you say there were those other things, when you cannot say there was a glass plate on top.

A. From my recollection I think they were there.

X Q. 362. If there was a glass top, what was the object of it?

A. I don't know.

X Q. 363. Didn't Mr. Lawrence tell you what the object was?

A. No, sir.

X Q. 364. Did Mr. Lawrence tell you the object and operation of the box?

A. He did not.

X Q. 365. Did Mr. Lawrence tell you anything about it?

A. He told me he had it there for the purpose of having money put in it.

X Q. 366. Havn't you sworn to-day that Mr. Lawrence explained to you the operation of that box on the vessel?

A. I might have.

X Q. 367. You don't know whether you have or not?

A. I don't.

Cross-examination suspended until Tuesday, February 18th, at 11 a. m.

Cross-examination of Kirkland resumed, de bene esse:

X Q. 368. You are a brother-in law of Mr. Wood, are you not?

A. Yes, sir; I believe so.

X Q. 369. He is married to your sister, is he not?

A. I believe so.

X Q. 370 You know those things, do you not?

A. I never saw him married.

X Q. 371. But you recognize him as your brother-in-law, do you not?

A. I do sir.

X Q. 372. Are you in arrears for rent to Mr. Wood?

A. No, sir; I think not.

X Q. 373. Can you say certainly whether you are or not?

A. I don't owe him anything the first of the month.

X Q. 374. What month?

A. February.

X Q. 375. Has he not allowed you to live in his house sometimes free of rent?

A. No, sir.

X Q. 376. Then you mean to say, do you, that from the time of your becoming a tenant of his, up to the first of the present month, you have always paid him full rent?

A. Keep the house in repair; yes, sir.

X Q. 377. Do you keep the house in repair and take charge of it for him.

A. I do.

X Q. 378. And he allows you something for that, does he?

A. Yes, sir.

X Q. 379. Do you recollect the year in which you cast your first vote?

239 A. I do not, sir.

X Q. 380. Do you recollect the year in which you last voted?

A. No, sir.

X Q. 381. What was the matter with the table of the box of the ship?

A. Out of order.

X Q. 382. Give us the particulars.

A. Out of order, so that it wouldn't work.

X Q. 383. What made it out of order, so it wouldn't work?

A. I don't know.

X Q. 384. Do you know it was out of order?

A. Our foreman said so.

X Q. 385. Then you do not know yourself whether it was out of order or not?

A. It was out of order so that it wouldn't work.

X Q. 386. Can you tell what was the matter with it?

A. The wire was broke.

X Q. 387. Is that all?

A. All that I know of.

X Q. 388. Was that all the repairs done to the box?

A. No. sir.

X Q. 389. What was the matter with the wire?

A. The wire was broken.
X Q. 390. What was that wire made of?
A. Made of wire.
X Q. 391. Of what metal?
A. Common wire I think it was; small.
X Q. 392. Was it iron, steel, or brass?
A. Common wire.
X Q. 393. (Repeated.)
A. I don't know.
X Q. 394. If you do not know, how do you know it was common wire?
A. Small wire.
(Answer objected to as irresponsive.)
X Q. 395. (Repeated.)
240 A. Small wire.
X Q. 396. You have said it was common wire, have you not?
A. Common small wire.
X Q. 397. What do you call common, small wire?
A. Such as small wire.
X Q. 398. Of what material is common, small wire?
A. The material it is made of I never saw made; don't know how it was made?
X Q. 399. Nor of what it is made?
A. Of what they call iron wire.
X Q. 400. What kind of wire did the box have?
A. That was this wire on the box on the table.
X Q. 401. Do you mean to swear to that?
A. Yes, sir.
X Q. 402. What part of this wire was broken?
A. Inside of the box under the table.
X Q. 403. Then the table was not damaged, but only the wire; is that what you mean?
A. The wire was broken, so that the table would not work.
X Q. 404. (Repeated.)
A. (Repeated.)
X Q. 405. Then the table was not damaged?
A. Out of order.
X Q. 406. How was the table out of order when only the wire was broken?
A. It was out of order, wouldn't work, when the wire was broken.
X Q. 407. Did the wire have a handle?
A. A kind of a ring on the end.
X Q. 408. Was the ring a separate piece or part of the wire?
A. Part of the wire.
X Q. 409. What other repairs were done to the box at the shop?
A. A little solder on one side.
X Q. 410. Is that all?
A. All that I know of.
241 X Q. 411. Was a new wire put in, or was the old one repaired?
A. I don't know which.
X Q. 412. Did the box, when it was repaired, have a ring on the wire?
A. Yes, sir.

X Q. 413. Had it a new wire when the box was repaired?
A. I don't know.
X Q. 414. How much of the side was loose?
A. I cannot give the length; a small piece.
X Q. 415. Was that piece over or under the table?
A. It was on the side of the box; outside.
X Q. 416. Over or under the table?
A. I don't remember.
X Q. 417. But you did see that the soldering was done?
A. I saw it had been soldered.
X Q. 418. I hand you a piece of paper and a pen, and ink; and ask you to draw a line representing the size of the loose place that was soldered; will you do so?
A. I have never done so; don't know as I could.
X Q. 419. And notwithstanding you have attended an engine for many years, you cannot draw a straight line?
A. I can draw a straight line.
X Q. 420. That is what I mean; please do so.
A. Give me a ruler; (draws;) that is as near as I can do it without my glasses.
X Q. 421. I mean a line the length of the piece that was soldered?
A. I don't know how long the piece was.
X Q. 422. Was it a foot long?
A. No, sir.
X Q. 423. How many inches was it long?
A. I don't know.
X Q. 424. Was it one inch long?
A. I never measured it.
242 X Q. 425. Was it about an inch long?
A. I don't know.
X Q. 426 But you know it was not as much as a foot?
A. I never measured it.
X Q. 427. But you have said it was not a foot?
A. I don't believe it was.
X Q. 428. Have you not said it was not a foot?
A. I don't believe it was; it was not a foot,
X Q. 429. Was the inside glass broken?
A. I don't know.
X Q. 430. What kept the inside glass in position, if anything?
A. I don't know.
X Q. 431. Was there an inside glass?
A. There was.
X Q. 432. That glass stood straight inside, did it not?
A. No, sir; slanting.
X Q. 433. Was any of the outside glass broken?
A. No, sir.
X Q. 434. How did you get on board the ship when you were sent for the box; by a ladder?
A. Walked up a gangway plank.
X Q. 435. You didn't have to climb any ladder, did you?
A. No, sir.

X Q. 436. When you got to the ship, for whom did you ask?
A. Didn't ask for anybody.
X Q. 437. What did you do then?
A. Went in the cabin.
X Q. 438. When you got there what did you do?
A. Saw Mr. Lawrence.
X Q. 439. How did you know it was Lawrence?
A. I had seen him different times before; understood that was his name.
X Q. 440. Where did you see him different times before?
A. At Mr. Wood's store.
243 X Q. 441. How long before you went to the ship had you seen him at Wood's store?
A. I don't recollect.
X Q. 442. Did you have an order for that box when you went to the ship?
A. No, sir.
X Q. 443. Did he know you when he gave it to you?
A. That I don't know.
X Q. 444. Do you mean to say it is possible that Lawrence would give that box to a stranger without an order?
A. I have got dozens of articles without an order from the ship.
X Q. 445. After delivering that box where did you next see it?
A. I don't recollect.
X Q. 446. How many years afterwards; do you recollect?
A. I have seen it inside of half a year; it may be a month.
X Q. 447. Do you remember the visit of the Prince of Wales to this country?
A. I have heard tell of it.
X Q. 448. Did you hear tell of it before you had the box repaired?
A. I don't recollect.
X Q. 449. Do you recollect the celebration of the laying of the Atlantic cable in New York, which took place before the war?
A. I don't recollect.
X Q. 450. Do you recollect the presidential contest of Freemont and Buchanan?
A. I don't recollect what time it was.
X Q. 451. Did you see this box repaired after or before the firing on Fort Sumpter?
A. I didn't see it repaired.
X Q. 452. When you took it to be repaired, was it after or before the firing on Fort Sumpter?
A. I don't recollect; I never was at Fort Sumpter.
244 X Q. 453. For how many years did you visit the ships of the Black Ball line, after the box was repaired?
A. I don't recollect how many years.
X Q. 454. What brought you to the ships so much afterwards?
A. Carrying repairs for them—things to be repaired from the ship to the shop, such as tinware.
X Q. 455. What part of the ship did you leave the things in?
A. Sometimes in the cabin, sometimes in the galley.

X Q. 456. Was that the same cabin that you saw the box?
A. Yes, sir; I have left some things there in that same cabin.
X Q. 457. Was that cabin fore or aft?
A. It was aft in the vessel.
X Q. 458. When Woods sold out did you continue to work for Curran?
A. Some time.
X Q. 459. While working for Curran, did you see the box on the ship?
A. No, sir.
X Q. 460. Did you go to those ships when you worked for Curran?
A. I don't believe I did.
X Q. 461. In what year did Curran get the business from Wood?
A. I don't recollect what year.
X Q. 462. When you carried the box from the ship to the shop, or from the shop to the ship, did you ride?
A. No, sir.
X Q. 463. What other work was done for the ship at or about the time the box was repaired?
A. Repairing some tinware.
X Q. 464. Anything else?
A. Lamps and lanterns, and such like.
245 X Q. 465. Were you working at the store when you cut your hand?
A. Yes, sir.
X Q. 466. Whereabouts was it that you cut your hand?
A. It was my arm I cut.
X Q. 467. Have you not sworn it was your hand that was cut?
A. No, sir; I think not.
X Q. 468. Were you engineer at the time Mr. Wood's foundry was burned?
A. Yes, sir; I ran the engine.
X Q. 469. How was the fire caused?
A. Can't tell you; don't know.
X Q. 470. Did you have charge of the boiler at that time?
A. I did.
X Q. 471. Did you ever hear that it was the boiler that caused that fire—which boiler you had charge of?
A. No, sir.
X Q. 472. Did not that fire happen on a Saturday night?
A. I don't recollect.
X Q. 473. At what place did the doctor dress your arm?
A. At his own house.
X Q. 474. Who paid his bill?
A. Myself.
X Q. 475. Who was with you when it got cut?
A. I don't recollect.
X Q. 476. What was McLoney's first name?
A. I believe it was Patrick.
X Q. 477. Where is he now?
A. I believe he is dead; so I heard.
X Q. 478. When Mr. Wood showed you the box, week before last, how long did you look at it before you told him you had seen the like before?

A. A very short time.

X Q. 479. More than a minute?

246 A. I don't recollect.

X Q. 480. Did you take it in your hand?

A. I did.

X Q. 481. How long were you and Mr. Wood together at that interview?

A. A very few minutes.

X. Q. 482. When you became a citizen where were you working?

A. For Mr. Wood, in the foundry.

X Q. 483. Why did you not apply for your citizen's papers in Brooklyn, instead of New York?

A. The reason I don't know. I went to New York and got them.

X Q. 484. Have you ever been a witness for Mr. Wood, or any case where he was interested, before the present?

A. I don't recollect as I have.

X Q. 485. When money was put into the ship box, did it fall into the drawer below?

A. Fell on to the table; what I call the table.

X Q. 486. And then tipped the table, and fell below in the drawer?

A. When you'd move the wire it would fall into the drawer.

X Q. 487. How many different times did you see the box on the ship, after it was repaired?

A. I don't recollect how many times.

X Q. 488. Who did you see pull the wire?

A. George Lawrence.

X Q. 489. How many times?

A. I can't recollect how many times.

X Q. 490. Were any of the glass sides moveable?

A. They were all fast in the box.

X Q. 491. The first time you saw the box, did you see Lawrence tip the table?

A. No, sir.

X Q. 492. Did you observe the box particularly, to see if the glass sides were fast or moveable?

A. They were fast into the box.

X Q. 493. On what did the table rest?

247 A. It was inside the box.

X Q. 494. What kept it up?

A. I don't know.

X Q. 495. What month or day of the month did you sail from Liverpool?

A. I don't recollect.

X Q. 496. Who told you Lawrence was port steward?

A. Himself.

X Q. 497. Did he tell you that when he gave you the box?

A. No, sir.

X Q. 498. When did he tell you?

A. Some time before that.

X Q. 499. Where?

A. In Mr. Wood's store.

X Q. 500. How long before?
A. I don't recollect.
X Q. 501. How many years before?
A. I don't recollect how many.
X Q. 502. Was it after you went to work at the store that he told you this?
A. Yes, sir.
X Q. 503. What was the drawer made of?
A. Iron.
X Q. 504. Why did you take the drawer with you to the shop?
A. It was in the box.
X Q. 505. Did it fall out of the box while you were carrying it?
A. It did.
X Q. 506. How many times?
A. Once.
X Q. 507. Where were you when it fell?
A. On the dock.
X Q. 508. How came it that Mr. Wood asked you week before last whether you had seen a box like that little model before?
A. I don't know.
248 X Q. 509. Did he appear glad or pleased when you told him you had seen one like it before?
A. He didn't appear glad or pleased that I know—didn't say his mind at all about it.
X Q. 510. Did you ask him why he wanted to know?
A. No, sir.
X Q. 511. Do you remember any work that was done for the ship at the time the box was repaired?
A. May be some tinware.
X Q. 512. How much?
A. I don't recollect how much.
X Q. 513. Was any machinery made for that ship about that time by Mr. Wood?
A. I don't know; don't recollect any.
X Q. 514. Has Mr. Wood ever gone bail or security for you or any of your family?
A. I don't recollect.
X Q. 515. Don't recollect whether he has gone bail?
A. No, sir.
X Q. 516. What was the inside glass for in the box?
A. The money dropped on to it.
X Q. 517. Did you see the money drop on it?
A. I did.
X Q. 518. How many times?
A. Different times.
X Q. 519. Did you look at the box every time your were in the cabin?
A. I saw it on the table.
X Q. 520. What cabin was that?
A. The cabin of the ship.
X Q. 521. Do you not know that there is more than one cabin on a ship?

A. I do not.
X Q. 522. Was this inside glass under or over the table?
A. It was above it.
X. Q. 533. When did you last see that box?
A. I don't recollect.
249 X Q. 524. Your memory is not of the best, is it?
A. Sometimes, very good.
X Q. 525. Is it not possible, after the lapse of so many years, that it was 1856, instead 1855, when you first saw the box?
A. It was in 1855.
X Q. 526. You mean there can be no mistake about that, do you?
A. No, sir.
X Q. 527. Were you a citizen at that time?
A. Yes, sir.
X Q. 528. How many children had you at that time, living?
A. I don't recollect how many we had at that time.
X Q. 529. Did you have any children born in that year?
A. I don't recollect.
X Q. 530. Did you have any die in that year?
A. I don't recollect.
X Q. 531. What day of the week was it that you went to work at the store?
A. I don't recollect the day of the week.
X Q. 532. What day of the week was it you took the box to be repaired?
A. I don't recollect the day of the week.
X Q. 533. Would you recollect the name of that ship if you heard it?
A. I don't know the name of her.
X Q. 534. What was the first work you did when you went to that store?
A. Work in the blacksmith-shop.
X Q. 535. How many hours of the first day did you work?
A. I don't recollect how many hours.
X Q. 536. Was that all the work you did the first day?
A. I don't recollect.
X Q. 537. Did you act as a helper in the blacksmith-shop?
250 A. Yes, sir.
X Q. 538. What were the names of the blacksmiths?
A. John Wright, Alexander McAllister. I believe that was all.
X Q. 539. You don't recollect any more?
A. I do not.
X Q. 540. What were they working on when you helped?
A. Putting ship stoves together; making bolts.
X Q. 541. What did you do the second day?
A. I don't recollect.
X Q. 542. What did you do the third day?
A. I don't recollect.
X Q. 543. What did you do the fourth day?
A. I don't recollect.
X Q. 544. The fifth day?
A. I don't recollect.

X Q. 545. The sixth day?
A. I don't recollect.
X Q. 546. The seventh day?
A. I don't recollect.
X Q. 547. The eighth day?
A. I don't recollect.
X Q. 548. The ninth day?
A. I don't recollect.
X Q. 549. The 10th day?
A. I don't recollect.
X Q. 550. The 11th day?
A. I don't recollect.
X Q. 551. The 12th day?
A. I don't recollect.
X Q. 552. The 13th day?
A. I don't recollect.
X Q. 553. The 14th day?
A. I don't recollect.
X Q. 554. What did you do for any day from that day to a year thereafter?
A. I opened the shop some days.
X Q. 555. Anything else?
251 A. Yes, sir; carried things from ships.
X Q. 556. What things?
A. Such as tinware.
X Q. 557. What else?
A. Lanterns.
X Q. 558. Anything else?
A. Lamps.
X Q. 559. What kind of lanterns?
A. Glass lanterns.
X Q. 560. Describe these lanterns in every particular, from top to bottom.
A. Glass lanterns.
X Q. 561. Is that the best description you can give?
A. There was a ring on top to carry it in your hand by.
X Q. 562. Is that all the description you can give?
A. A place to burn oil in the bottom; some wire round the outside of the glass.
X Q. 563. Is that all you remember of the lanterns?
A. That is all I know of the description.
X Q. 564. Was there kerosene oil in the lanterns?
A. I don't know.
X Q. 565. What else did you carry besides lanterns or tinware?
A. Sometimes copper saucepans.
X Q. 566. And all that within a year from the time you went there?
A. I don't recollect.
X Q. 567. When you cut your arm at the store, who attended to you?
A. A doctor named Lorette, dressed it.
X Q. 568. No one in the store?
A. No, sir.

X Q. 569. Did anybody bandage your arm?
A. I did it myself.
X Q. 570. With what?
A. A handkerchief around it.
252 X Q. 571. Did you buy any medicine or ointment for your cut arm?
A. No, sir.
X Q. 572. At about the time you got the box repaired, was there any stove repaired for the ship?
A. I don't recollect.
X Q. 573. Was there anything else repaired for the ship at about that time?
A. Tinware.
X Q. 574. What description of tinware?
A. What they call dishpans.
X Q. 575. Was anything else repaired for the ship at about the time the box was?
A. I don't recollect—nothing but tinware.
X Q. 576. What repairing was done to the tinware?
A. I don't know.
X Q. 577. Didn't you see the tinware before and after it was repaired?
A. Before it was repaired.
X Q. 578. And afterwards, too?
A. Yes, sir.
X Q. 579. What was the matter that it needed repairs?
A. I don't know.
X Q. 580. Do you mean that you never knew, or that you don't now recollect?
A. I don't know what was the matter.
X Q. 581. Did you help to carry the tinware from the ship to the shop?
A. No, sir; I carried them myself.
X Q. 582. Did Lawrence tell you that the tinware wanted to be repaired?
A. No, sir.
X Q. 583. Do you know what the obligation of an oath is?
A. I do, sir.
X Q. 584. What is it, then?
A. Do you want to consign your soul to hell?
253 X Q. 585. Never mind what I want to do, you have just said you know the obligation of an oath, now just tell us what it is, and never mind other people?
A. I don't want to swear to a falsehood.
X Q. 586. I don't care what you want to do. Answer my question.
A. I don't want to swear to a falsehood.
X Q. 587. Do you believe in punishment hereafter for false swearing?
A. I do.
X Q. 588. What was Lynch's position at the store?
A. He was a tin or copper smith worker.
X Q. 589. You say that you saw Lawrence about 7 years ago—in what office?

A. I don't know when it was.
X Q. 590. Do you know the No. in Bowling Green?
A. I do not.
X Q. 291. Were you transacting business in the same office?
A. I was helping to put up a stove.
X Q. 592. Who employed you?
A. Mr. Curran, I believe.
X Q. 593. What floor of the building was it you put in the store?
A. I don't recollect.
X Q. 594. Was it up stairs?
A. I don't recollect.
X Q. 595. Was it a shipping office?
A. I don't know.
X Q. 596. What was Lawrence doing there?
A. He was walking through the hall.
X Q. 597. Did he have a coat or hat on?
A. I don't recollect.
X Q. 598. Did he say what he was doing?
A. No, sir.
X Q. 599. Was the wire on the ship-box twisted wire?
A. No, sir.
254 X Q. 600. Did you get that box to be repaired before or after the war?
A. I don't recollect.

JAMES KIRKLAND.

Taken and reduced to writing, and by the witness subscribed and sworn to before me, this 18th February, 1879.

B. LINCOLN BENEDICT,
Special Examiner.

Testimony for defendant closed.

At a stated term of the United States circuit court for the eastern district of New York, on the 29th day of October, A. D. 1879.
Present, Hon. Charles L. Benedict, district judge.

JOHN B. SLAWSON
vs.
THE GRAND STREET, PROSPECT PARK AND Flatbush Railroad Company.

Cause called for hearing.
Appearances: Geo. Gifford, for complainant; Philip S. Crooke, for defendant.
Cause argued and submitted.

255 United States circuit court for the eastern district of New York.

JOHN B. SLAWSON
vs.
THE GRAND STREET, PROSPECT PARK, AND Flatbush Railroad Company. } February 26th, 1880.

BENEDICT, J.:
This is a suit in equity, brought to recover damages by reason of an

alleged infringement by the defendant of two certain patents owned by the plaintiff. One of these patents was issued to the plaintiff July 28th, 1857, for an improvement in fare-boxes. It was reissued May 4th, 1858; again reissued January 24th, 1871, and is now known as reissue No. 4240, extended for the term of seven years from the 28th day of July, 1871. The other patent sued on is also for an improvement in fare-boxes, granted to Elijah C. Middleton, assignee of James C. Winchell, December 2d, 1871, numbered 121920, and on the 17th day of April, 1873, assigned to the plaintiff. The defendants deny the infringement, and also dispute the validity of the patents sued on.

The question raised in respect to the Slawson patent, No. 4240, will first be considered.

The patent contains two claims, in the following language:

256 "1. A fare-box, composed of two compartments, so combined that the fare, on being deposited through an opening in one of them by the passenger, without the intervention of the driver or conductor, shall be temporarily arrested therein for examination and inspection by the driver or conductor through an opening therein covered by a transparent medium, and then, when approved of, transferred directly to the second or general receiving compartment, which as well as the first is made inaccessible, except by violence, to the driver or other unauthorized person, for the purpose set forth.

"2. A fare-box, having two compartments, into one of which the fare is first deposited and temporarily arrested previously to its being deposited in the other, when the former is provided with openings covered or protected by transparent mediums or devices, so arranged that the passenger can see through one and the driver or conductor through the other, in manner substantially as and for the purposes set forth."

Subsequent to the extension of this patent and on September 6th, 1877, the patentee filed a disclaimer, in which he sets forth that, through inadvertence, accident, or mistake, the specification or claims of the said letters patent are too broad, including that of which the said patentee was not the first inventor, and thereupon he enters his disclaimer to that part of the claims in said specifications which constitutes the first of the claims above set forth. The effect of this disclaimer was to limit the invention to a fare-box composed of two compartments, where the compartment into which the fare is first deposited is provided with two windows, so arranged that the passengers can see through one and the car driver through the other.

257 It will be observed that no claim is made to any particular device by which the fare when deposited is temporarily arrested before passing into the lower compartment, nor to any form of opening in the box, nor to any particular locality for the windows, provided only they are so arranged that the passengers can see through one, and the driver the other.

It must also be observed that the first claim described a fare-box similar in all its respects to the fare-box described in the second claim, with the single exception, that it contained but one window so arranged that the driver could see through it. And such a fare-box the disclaimer asserts was known prior to the plaintiff's invention. It is apparent, therefore,

that the only novelty in the plaintiff's invention, as it now stands described in his patent, consists in the additional window so arranged that a passenger by looking through it can see the fare deposited by him. The question therefore at once arises whether the addition of such a window to a known style of fare-box, having a window arranged so that the driver can see the fare when deposited by the passenger, constitutes an invention within the meaning of the patent laws.

The view taken in behalf of the plaintiff is that the claim is for a combination consisting of certain old elements and one new element, namely, the additional window.

But no new result is accomplished by the introduction of the additional window in the fare-box. The fare is deposited as before, and reaches its final destination in precisely the same way as before, without acceleration, detention, or deviation. The only distinction between the old and the new box is that in the old box the fare in its passage from the
258 passenger to the lower compartment of the box passes by one window, while in the plaintiff's box it passes by two windows. This distinction does not constitute a difference in the result. The additional window, it is true, permits the transmission of light through a part of the box where before it could not pass. But it accomplishes this result without aid from any other part of the machine, and in so doing it in no way modifies the operation of any of the other parts. There is, in fact, no joint operation, and the case is one of simple aggregation, not combination. Furthermore, all that the plaintiff did was to duplicate one of the features of the machine. Some convenience doubtless resulted from this duplication, but the effect produced by the additional window was the same in kind as that produced by the existing window, and accomplished in the same way. There was no patentable matter in the discovery that it would be more convenient to have light transmitted through the box in another place, and I am unable to see that any invention was required to accomplish that result by adding another window.

In order to constitute a patentable combination, the result must be some effect different from the effect of the separate parts, and produced by the combined forces. A new result must arise from the reunion of the elements of the combination, and not simply from the separate action of each element. So the law has been declared in numerous cases, and no different rule is contended for in this case. The difficulty in this, as in most cases of this description, is not in regard to the rule of law, but in applying the rule with proper discrimination to the facts of the particular case. It is not therefore to be expected, in controversies of
259 this character, that any prior adjudged case can be found so similar in its facts, as to furnish a direct authority, one way or the other. But in this instance there is one prior adjudged case, so very similar to the one in hand, that it may very well be said to compel the conclusion that is this patent is void. I refer to the case of Hailes vs. Van Wormer (20 Wall., p. 354). That was the case of a base burning stove having two chambers, in one of which the coal is first placed, and whence it descends to the other, and is there consumed. One claim of the patent was for the construction of an "illuminating window" in one of the chambers, in combination with certain other designated parts of the stove. The "illuminated window" was an opening in the stove covered

with mica. The other parts of the stove were already known in combination, and the court says: "It is impossible to regard the mere addition of such openings to a stove containing the improvements described in the reissued patent as the formation of a new combination. It is not invention." In that case the rest of the stove was old—as here the rest of the fare-box is conceded by the disclaimer to be old. In that case, as here, the additional element was an opening covered by a transparent medium. In that case the object of the opening was to enable the coal which passed from the upper to the lower compartment of the stove to be seen through the opening. In this case the object of the opening is to enable the fares which pass from the upper to the lower compartment of the fare-box to be seen through the opening. There such openings were a well known device applied to stoves. Here a similar opening was employed for the same purpose, in the fare-box admitted to be old. In this case therefore, as in that, it must be said, that it is impossible to regard the mere addition of such an
260 opening to a fare-box conceded to be old, as the formation of a new patentable combination. It is not invention.

There remains to consider the second patent upon which the plaintiff relies in his bill. This patent was issued to Elijah C. Middleton, assignee of James F. Winchell, dated December 12th, 1871, and is also a patent for an improvement in fare-boxes. The specification states that "the improvement relates to the mode of illuminating the interior of a fare-box in street railway cars or other vehicles when used during the night, and it consists in the construction of a fare-box with suitable openings and reflectors, arranged and adapted to receive light from the ordinary head lamp placed above the fare-box."

The claim is as follows: "What I claim and desire to secure by letters patent is lighting the interior of a fare-box at night by light obtained from the head-light of the car, thrown by the reflector I through an opening H, in the head-lamp box into the chamber for the temporary detention of the fare for inspection, substantially in the manner and for the purpose set forth."

The contention on the part of the plaintiff is, that this is a claim for a combination of certain old elements, viz: (1) a fare-box with an opening at the top covered by glass or other transparent substance; (2) the head lamp of a car; (3) a reflector—in such a manner that a part of the light from the head lamp shall be reflected upon the platform of the fare-box. Assuming the claim to be for a combination, the only novelty pretended consists in the arranging the fare-box, lamp, and reflector, in such a manner that light from the lamp will be thrown into the fare-box. No
261 invention was required to so arrange these parts. It would not fail to be accomplished by any person of ordinary intelligence and experience who should attempt it.

This patent, therefore, must be held to be void. The result is, that the bill is dismissed, with costs.

At a stated term of the circuit court of the United States for the eastern district of New York, held at the court-house in the city of Brooklyn, on the 25th day of March, 1880.

Present, the Hon. Charles L. Benedict, district judge.

JOHN B. SLAWSON
vs.
THE GRAND STREET, PROSPECT PARK AND Flatbush Railroad Company. } In equity.

This cause having been heretofore heard on argument by George Gifford, esq., counsel for complainant, and by Philip S. Crooke, and David C. Van Cott, esq'r's, of counsel for defendant, on the pleadings and proofs, and the court having considered the same, and having had due deliberation thereon, now, on motion of Philip S. Crooke, solicitor for defendant, it is ordered, adjudged, and decreed, and this court, by virtue of the authority and power therein vested, doth hereby adjudge and decree*d* that the said complainant's bill of complaint in this action be, and the same is hereby, dismissed, with costs.

262 And it is further ordered, adjudged, and decreed that the complainant pay to the said defendant, or its solicitor, its costs of suit, which have been taxed at two hundred and forty-seven dollars and thirty-five cents, and that said defendant have execution against said complainant for such costs.

CHAS. L. BENEDICT.

(Endorsed:) Final decree. Filed & entered March 25th, 1880.

263 U. S. circuit court, eastern district of New York. In equity.

JOHN B. SLAWSON
vs.
GRAND STREET, PROSPECT PARK AND FLATbush Railroad Company. }

It is hereby stipulated that during the pendency of the appeal to the U. S. Supreme Court in the above suit, the exhibits put in evidence by each party may be retained in the possession of the party putting the same in evidence, subject, however, to the inspection of the other party during the appeal, and subject to their production on the hearing of said appeal.

Dated March 25th, 1880.

GEO. GIFFORD,
Compl't's Sol'r.
P. S. CROOKE,
Def't's Sol'r.

(Endorsed:) Stipulation. Filed March 25th, 1880.

Circuit court of the United States, eastern district of New York.
In equity.

JOHN B. SLAWSON, COMPLAINANT AND APPELLANT,
vs.
THE GRAND STREET, PROSPECT PARK AND Flatbush Railroad Company, defendant and appellee.

To the honorable the Supreme Court of the United States:

The appeal of John B. Slawson, the above-named complainant and appellant, respectfully showeth:

That on the 23rd day of July, 1878, the above-named John B. Slawson filed his bill of complaint in the circuit court of the United States for the eastern district of New York, against the above-named defendant and appellee, to enjoin and restrain the said defendant and appellee from
265 infringing two certain letters patent of the United States; one granted to the said complainant and appellant, dated the 24th day of January, 1871, and numbered 4240, for passenger-fare boxes; and the other granted to Elijah C. Middleton, dated the 12th day of December, 1871, and numbered 121920, for an improvement in fare-boxes, and owned by the said complainant and appellant; and also praying for an account of profits and assessment of damages arising from said infringement.

That a subpœna issued out of said circuit court was duly served on the said defendant and appellee. That the defendant and appellee filed its answer to said bill of complaint, to which the complainant and appellant filed a general replication.

Whereupon such proceedings were had in the cause that on the 25th day of March, A. D. 1880, a final decree was made and entered in said
266 circuit court, wherein it was in substance adjudged and decreed that the said bill of complaint be dismissed with two hundred and forty-seven dollars and thirty-five cents costs; which said judgment and decree is, as the complainant and appellant is advised, erroneous, and ought to be reversed.

Wherefore this appellant appeals from the whole of said decree of said circuit court to the Supreme Court of the United States, and respectfully prays that the decree of the said circuit court, and the bill, answer, pleadings, depositions, evidence, and proceedings in the said cause may be sent to the Supreme Court of the United States without delay, and that the said Supreme Court will proceed to hear the cause anew, and that the
267 said decree of the circuit court and every part thereof may be reversed, or such other decree made as to the said Supreme Court shall seem just.

JOHN B. SLAWSON,
By his solicitor, GEORGE GIFFORD.

GEORGE GIFFORD,
Solicitor and of Counsel for Complainant and Appellant.

(Endorsed:) Appeal.

I allow the within appeal.
Dated April 2nd, 1880.

CHAS. L. BENEDICT,
District Judge holding the Circuit Court.

Filed April 10th, 1880.

268 United States Supreme Court.

JOHN B. SLAWSON, APPELLANT,
vs.
THE GRAND STREET, PROSPECT PARK AND Flatbush Railroad Company, appellee.

UNITED STATES OF AMERICA:
Eastern District of New York, ss:

Philip J. O'Reilly, being duly sworn, deposes and says:
I am of lawful age and reside in the city of New York. On the 10th day of April, 1880, I served on the above-named appellee and defendant a copy of the appeal filed in this cause with the clerk of the circuit court in and for the eastern district of New York, by leaving said copy of the appeal for the solicitor of said appellee and defendant in the clerk's office of the circuit court aforesaid.

PHILIP J. O'REILLY.

Subscribed and sworn to before me this 10th day of April, 1880.
B. LINCOLN BENEDICT,
U. S. Commissioner.

269 (Endorsed:) Affidavit of service of copy. Appeal. Filed April 10th 1880.

270 Supreme Court of the United States.

JOHN B. SLAWSON
vs.
THE GRAND STREET, PROSPECT PARK AND Flatbush Railroad Company.

Know all men by these presents that we, John B. Slawson, of the city, county, and State of New York, and Addison Cammack, of said city, county, and State of New York, are held and firmly bound unto The Grand Street, Prospect Park and Flatbush Railroad Company in the sum of five hundred dollars, to be paid unto the said Grand Street, Prospect Park and Flatbush Railroad Company or assigns, to which payment,
271 well and truly to be made, we bind ourselves and each of us, jointly and severally, and our and each of our heirs, executors, and administrators firmly by these presents. Sealed with our seals, dated this 29th day of March, 1880.

Whereas the above-named John B. Slawson hath taken an appeal to the Supreme Court of the United States to reverse the decree rendered in the above-entitled action by the circuit court of the United States for the eastern district of New York:

Now, therefore, the condition of this obligation is such that if the

above-named John B. Slawson shall prosecute his said appeal to effect, and answer all costs and damages if he shall fail to make good his plea, then this obligation shall be void; otherwise to remain in full force and virtue.

J. B. SLAWSON. [L. S.]
ADDISON CAMMACK. [L. S.]

Sealed & delivered in the presence of—
PHILIP J. O'REILLY.

272 UNITED STATES OF AMERICA,
Southern District of New York,
City and County of New York, ss:

John B. Slawson, being duly sworn, deposes and says that he is a freeholder residing in the city of New York, and that he is worth the sum of five hundred dollars over and above his just debts and liabilities.

J. B. SLAWSON.

Sworn to before me this 29th day of March, 1880.
[L. S.] JAMES KEARNEY,
Notary Public, N. Y. Co.

UNITED STATES OF AMERICA,
Southern District of New York,
City and County of New York, ss:

Addison Cammack, being duly sworn, deposes and says that he is a freeholder residing in the city of New York, and that he is worth the sum of five hundred dollars over and above all his just debts and liabilities.

ADDISON CAMMACK.

273 Sworn to before me this 29th day of March, 1880.
[L. S.] GEORGE W. ELY,
Notary Public, N. Y. Co. (*No.* 31.)

I approve of the sufficiency of the sureties to the within bond.
Dated April 2nd, 1880.

CHAS. L. BENEDICT,
District Judge holding Circuit Court.

(Indorsed:) Bond on appeal. Filed April 10, 1880.

274 UNITED STATES OF AMERICA,
Eastern District of New York:

I, B. Lincoln Benedict, clerk of the circuit court of the United States of America for the eastern district of New York, in the second circuit, do hereby certify that the foregoing pages, numbered from one to two
274 pages. hundred and seventy-four, inclusive, contain a true and complete transcript of the record and proceedings had in said court in the case of John B. Slawson v. The Grand Street, Prospect Park and Flatbush Railroad Company, as the same remain of record and on file in said office

In testimony whereof I have caused the seal of the said court to be

hereunto affixed, at the city of Brooklyn, in the eastern district of New York, in the second circuit, this 13th day of May, in the year of
275 our Lord one thousand eight hundred and eighty, and of the Independence of the said United States the one hundred and fourth.

[SEAL.] B. LINCOLN BENEDICT, *Clerk.*

276 By the honorable Charles L. Benedict, one of the judges of the circuit court of the United States for the eastern district of New York.

To the Grand Street, Prospect Park and Flatbush Railroad Company:

Whereas John B. Slawson hath lately appealed to the Supreme Court of the United States from a decree lately rendered in the circuit court of the United States for the eastern district of New York, made in favor of you the said The Grand Street, Prospect Park and Flatbush Railroad Company, and has filed the security required by law; you are therefore hereby cited to appear before the said Supreme Court at the city of Washington, on the second Monday of October next, to do and receive what may appertain to justice to be done in the premises.

277 Given under my hand at the city of Brooklyn, in the second circuit, the 2d day of April, in the year of our Lord one thousand eight hundred and eighty.

CHAS. L. BENEDICT,
District Judge holding the Circuit Court.

278 (Indorsed:) U. S. circuit ct., eastern dist. N. Y. In equity. John B. Slawson vs. The Grand Street, Prospect Park and Flatbush Railroad Co. Citation.

Service of a copy of the within citation is hereby admitted this 10th day of April, 1880.

P. S. CROOKE,
Def'ts & Appellee's Solicitor.

Filed April 10, 1880.

(Indorsement on cover:) No. 238. John B. Slawson, appellant, vs. The Grand Street, Prospect Park and Flatbush Railroad Company. E. New York, C. C. U. S. Filed 7th July, 1880.

17-669

UNITED STATES SUPREME COURT.

No. 238.

JOHN B. SLAWSON,

Complainant and Appellant,

vs.

THE GRAND STREET, PROSPECT PARK AND FLATBUSH RAILROAD CO.,

Defendant and Appellee.

BRIEF FOR APPELLANT.

GIFFORD & GIFFORD,

Counsel for Appellant.

BURGOYNE, Law Case Printer, 57, 59 & 61 Park Street, N. Y. (Law Telephone 587.)

hereunto affixed, at the city of Brooklyn, in the eastern district of New York, in the second circuit, this 13th day of May, in the year of
275 our Lord one thousand eight hundred and eighty, and of the Independence of the said United States the one hundred and fourth.

[SEAL.] B. LINCOLN BENEDICT, *Clerk.*

276 By the honorable Charles L. Benedict, one of the judges of the circuit court of the United States for the eastern district of New York.

To the Grand Street, Prospect Park and Flatbush Railroad Company:

Whereas John B. Slawson hath lately appealed to the Supreme Court of the United States from a decree lately rendered in the circuit court of the United States for the eastern district of New York, made in favor of you the said The Grand Street, Prospect Park and Flatbush Railroad Company, and has filed the security required by law; you are therefore hereby cited to appear before the said Supreme Court at the city of Washington, on the second Monday of October next, to do and receive what may appertain to justice to be done in the premises.

277 Given under my hand at the city of Brooklyn, in the second circuit, the 2d day of April, in the year of our Lord one thousand eight hundred and eighty.

CHAS. L. BENEDICT,
District Judge holding the Circuit Court.

278 (Indorsed:) U. S. circuit ct., eastern dist. N. Y. In equity. John B. Slawson vs. The Grand Street, Prospect Park and Flatbush Railroad Co. Citation.

Service of a copy of the within citation is hereby admitted this 10th day of April, 1880.

P. S. CROOKE,
Def'ts & Appellee's Solicitor.

Filed April 10, 1880.

(Indorsement on cover:) No. 238. John B. Slawson, appellant, vs. The Grand Street, Prospect Park and Flatbush Railroad Company. E. New York, C. C. U. S. Filed 7th July, 1880.

17-649

UNITED STATES SUPREME COURT.

No. 238.

JOHN B. SLAWSON,

Complainant and Appellant,

vs.

THE GRAND STREET, PROSPECT PARK AND FLATBUSH RAILROAD CO.,

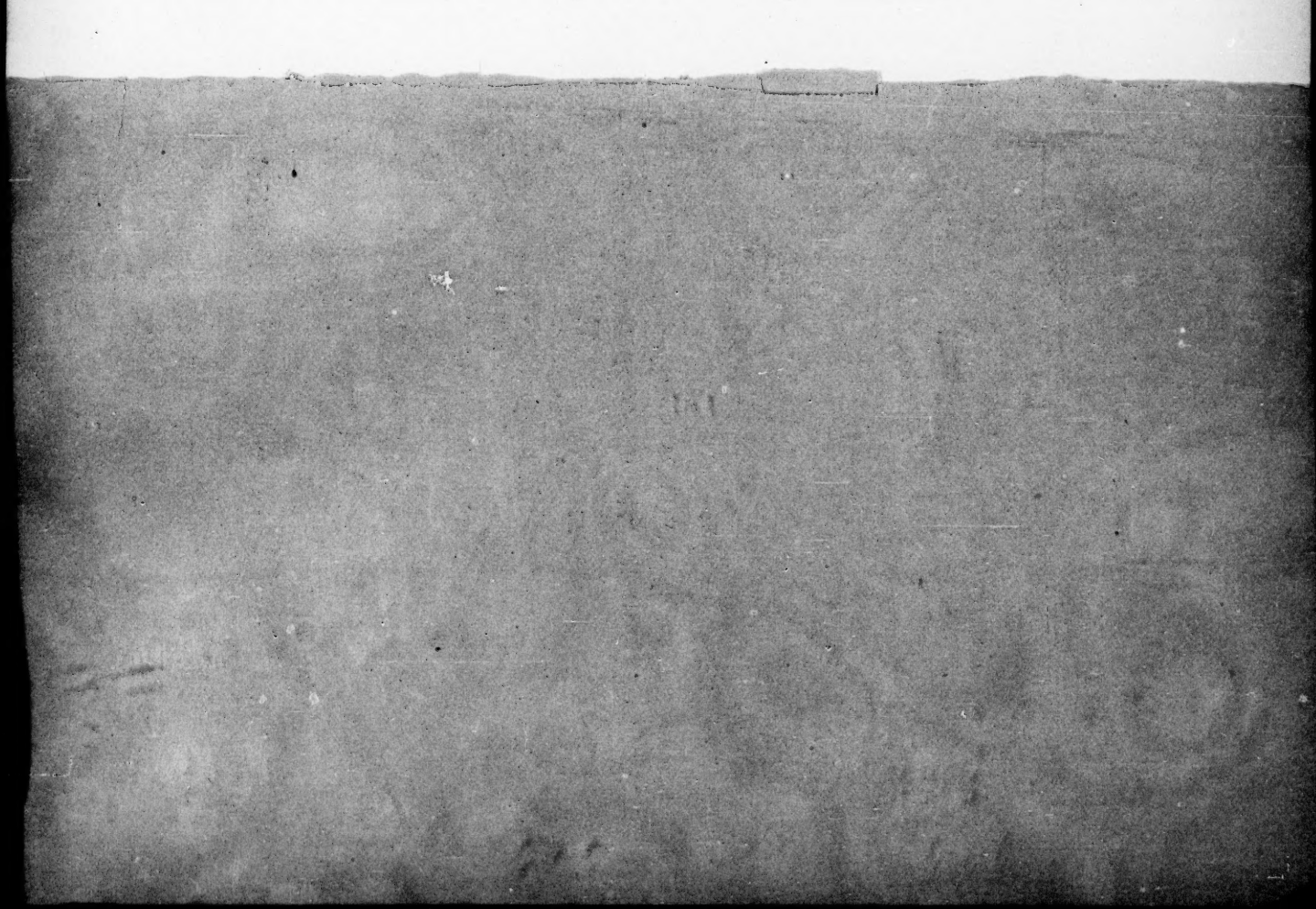
Defendant and Appellee.

BRIEF FOR APPELLANT.

GIFFORD & GIFFORD,

Counsel for Appellant.

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UNITED STATES SUPREME COURT.

JOHN B. SLAWSON,
Appellant,

vs.

THE GRAND STREET, PROSPECT PARK and FLATBUSH RAILROAD COMPANY,
Appellee.

Statement.

This is an appeal from a final decree of the Circuit Court of the United States for the Eastern District of New York, in a suit in equity, brought by the complainant against the defendant.

The suit was brought to obtain an injunction, account of profits, and assessment of damages, by reason of the defendant's infringement of two Letters Patent of the United States, granted for inventions in fare-boxes for passenger vehicles and owned by the complainant.

One of these patents was dated January 24, 1871, and numbered 4240, and was granted to complainant as inventor. It was extended by the Commissioner of Patents for seven years from July 28, 1871. Record, p. 48. This patent, No. 4,240, is a reissue patent, the original of which was granted to the inventor, the complainant, July 28, 1857. The reissue, No. 4,240, is printed at page 42 of the record. As originally granted, the reissue contained two claims, but prior to this suit, and on Sept. 6,

1877, the complainant filed in the Patent Office a disclaimer of the first claim. Record, pp. 3 and 49.

The other patent sued on was granted to Elijah C. Middleton as assignee of James F. Winchell, inventor, and was dated December 12, 1871, and numbered 121,920. This patent was assigned by Middleton to the complainant April 17, 1873. Record, pp. 4 and 52.

The bill alleged infringement of said two patents by the defendant's unauthorized use of fare boxes made according to the inventions set forth therein, and also alleged that the defendant's use of said inventions, was on the same car. Record, page 4, folios 7 and 8. The bill prayed for an injunction to restrain future infringement, and a decree for an account of profits and assessment of damages.

To the bill, the defendant filed an answer and an amendment thereto. These denied that the defendant had infringed; alleged that the inventions covered by the said patents had been in public use and on sale in this country for more than two years prior to the inventor's applications for patents therefor; denied that the complainant was the first inventor or discoverer of the fare box described in the reissue patent No. 4240, granted to Slawson; denied that said Winchell was the first inventor or discoverer of the improvement described in the patent No. 121,920, granted to Middleton, assignee; and alleged prior knowledge and use of said inventions by James Rogers, David Mills, Wm. Mills, Loftis Wood, James Stuart and John Stephenson, at specified places in the State of New York.

A general replication was filed to the answer.

Testimony for final hearing was taken on both sides. Neither the fact of the complainant's title to the patents sued on, nor the fact of defendant's infringement, was disputed. The testimony of the defendant was directed towards proving want of novelty of the invention covered by the second claim of the said Slawson Reissue No. 4,240. The

novelty of the invention covered by the other patent, the Middleton patent, was not attempted to be attacked.

After the testimony was closed, the case was brought to final hearing on pleadings and proofs, and was argued by counsel on both sides. The Circuit Court, thereafter, filed an opinion, by Judge Benedict, Judge of the District Court for the Eastern District of New York, in which it was decided that the bill should be dismissed on the ground of the want of patentability of the inventions in suit (Record, p. 144). This alleged defense of non-patentability was not set up against either of the patents, in the pleadings or alluded to in the testimony. A decree dismissing the bill with costs was accordingly entered (Record, p. 148). From that decree this appeal has been taken.

The question involved in this case is made, by the Court below, purely a question of law. The commissioner of patents decided that the patents were for patentable inventions, and issued the patents. His Honor, Judge Benedict, unaided by testimony, decided that the commissioner was wrong, and that the patents which he had issued were not for patentable inventions. Whether they were or were not for patentable inventions, it is believed, is the only question in this case which this Court will have occasion to consider. The complainant's title is not disputed; the sufficiency of the specification is not controverted; the legality of the formal proceedings in obtaining the patent is not disputed; the infringement is conceded; no question respecting a reissue patent being for the same invention as the original; and no question as to the reissue being too broad is raised; the Court can therefore consider and dispose of the case without embarrasment from any question except the question of law, that is, were either of the patents for a patentable invention. Although there were prior inventions set up in the answer, and made the subject of testimony the failure to prove priority of invention

was so conspicuous that the Court below did not think it worth while to place any dependence on that defense, but decided that neither of the patents sued on was for a patentable invention, and for that reason dismissed the bill.

That defense was not set up in the answer, or made the subject of testimony, but was sprung unexpectedly upon the complainant by the decision of the Court without previous notice.

The practice of authorizing a judge to spring the trap of non-invention upon a patentee, after a case has been tried, and the testimony completed, without that defense having been set up in the answer, or made the subject of testimony would be very dangerous, as it would not give the patentee timely opportunity of answering that objection, or showing by evidence, or otherwise, that the Court had erred in coming to that conclusion. Although there must be a patentable invention to sustain a patent, yet when the objection that the thing patented was not patentable because its production did not involve invention is not set up in the answer, or made the subject of testimony by the defendant, the complainant is deprived of a right which he ought to have enjoyed, and instead of vindicating his invention, must witness the crucifixion of his patent, by the opinion of one man, without an opportunity of being heard in its defence. Whether or not the thing patented is a patentable invention is, at most, a mere matter of opinion, and to allow the opinion of a single Judge to decide it was not, is allowing the *opinion* of *one man*, unaided by testimony, not selected with any special reference to his qualifications in such matters, to overrule and neutralize the decision, and the action of the Commissioner of Patents, aided by the advice of a corps of examiners, all of whom were selected with special reference to their qualifications to decide such matters. This is at least of doubtful propriety.

Such a practice reverses the rule, adopted in all other cases, by settling a mere matter of opinion by

adopting the opinion least reliable, and if such is to be the operation of law in cases of this kind, it at least admonishes those having the power of review to look with great care into the facts involved before sanctioning such decision.

Assignment of Errors.

The Circuit Court erred:

1. In deciding that no new result was accomplished by the introduction of the additional window in the fare box, as described in the Slawson patent.

2. In deciding that the *only distinction* between the alleged old and the new box is, that in the alleged old box the fare in its passage from the passenger to the lower compartment of the box passed by one window, while in the plaintiff's box it passes by two windows.

3. In deciding that the Slawson invention, as described in his patent, and specified in the second claim thereof, does not produce a joint operation of the combined elements and thereby produce a new result, but only amounts to a case of simple aggregation and not combination.

4. In deciding that the effect produced by the additional window in the Slawson combination was the same in kind as that alleged to be produced by the window previously existing in the alleged fare box, and was accomplished in the same way.

5. In deciding that the second claim of the Slawson reissue patent No. 4,240, was for unpatentable subject matter.

6. In deciding that a fare-box like that specifled in the first claim of the Slawson patent was known prior to the complainant's invention.

7. In deciding that the only novelty in the complainant's invention, as it now stands described in

the Slawson patent, consists in the addition of the passenger's window.

8. In not ordering a decree on said Slawson reissue patent No. 4,240, against the defendant for an account of profits and assessment of damages, as prayed for in the bill.

9. In deciding that the said Middleton patent, No. 121,920, was for unpatentable subject matter.

10. In deciding that no invention was required in so arranging the fare box, the head lamp and a reflector in such manner as to throw light from the head lamp into the fare box and upon the platform of the fare box.

11. In not ordering a decree on said Middleton patent, against the defendant for an account of profits, and assessment of damages for past infringement, and for a perpetual injunction against future infringement.

12. In dismissing the bill.

Point I.

THE SLAWSON PATENT.

The Circuit Court, by his Honor, Judge Benedict, decided that the invention specified in the second claim of the Slawson patent was not patentable; that, we think and respectfully submit, was erroneous.

His Honor admits that there was a useful combination of elements and that there was *novelty* in it, and says, "the only novelty in the plaintiff's invention, as it now stands described in his patent, consists in the additional window so arranged that a passenger, by looking through it, can see the fare deposited by him," and then decides that no invention was required to so arrange the parts. The language used, in the opinion of his Honor, shows that he made a mistake both as to the nature of the invention covered by

the second claim of the Slawson Patent and the law applicable to it.

The question as to what must be the condition of elements described in a patent to render their combination patentable has several times been decided by this Court and acted upon as settled law. That question was fully considered and carefully acted upon by this Court in three several cases.

The first was the case of Hailes vs. Van Wormer (20 Wallace, 353), in which Mr. Justice Strong delivered the opinion of the Court.

The second was the case of Reckendorfer vs. Faber (2 Otto, 347), in which Mr. Justice Hunt delivered the opinion of the Court.

The third was the case of Pickering vs. McCullough (14 Otto, 310), in which the opinion of the Court was delivered by Mr. Justice Mathews. In each and all of these cases the doctrine was announced and acted upon by the Court as settled law, that a combination of old elements to be patentable must not only be such as to produce a new result, but also such that the result must be the joint product of the combined elements, so that now to determine whether the elements are in patentable combination, or merely in aggregation, it is only necessary to consider whether there is a new result produced by the co-action of the parts in combination.

Mr. Justice Strong, in delivering the opinion of the Court in Hailes vs. Van Wormer (20 Wallace, 353), said :

> "It must be conceded that a new combination, if it produces new and different results, is patentable, though all of the constituents of the combination were well known and in common use before the combination was made," and then adds, "But the results must be a product of the combination and not a mere aggregate of several results each the complete product of one of the combined elements."

As might have been expected in an opinion delivered by that learned Judge, there is a full statement of the two extremes, namely, a statement of the condition which makes a combination of elements patentable, and a statement of the condition which excludes its patentability.

Now, it is respectfully submitted, that to determine whether or not the claim of Slawson contains a patentable combination it is only necessary to consider whether or not the use of one window would produce the same result as the use of the combination of the two windows. It will not be difficult to show that one window would not produce the object aimed at, or the same result as the joint use of the two windows, and that the co-action of the two elements jointly is indispensable.

His Honor, Judge Benedict, assumed that there was no result produced by the *combination* of the two windows, and which was due only to their combined use. He says, "But no new result is accomplished by the introduction of the additional window in the fare box." In this he made a fatal mistake. The mistake seems to have arisen from a misapprehension of the *nature of the result* which is produced by the combination. There is a result and a new result and it is produced by the combination described, and that result was the special aim and object which the inventor had in view in contriving the combination. The result was from the combined use of the two windows, and which result could not be obtained without their combined use. His Honor, to maintain the correctness of his conclusion, cites the case of Hailes vs. Van Wormer (20 Wall., page 353). That case would answer very well as an authority in favor of what his Honor mistook and assumed to be the nature of the Slawson invention, but has no application whatever to what was the nature of his invention, that is, it would apply to a case of a combination of elements where there was no result due to their combination and resulting from their reciprocal action.

In his attempted comparison he made several statements of fact as to resemblances which do not exist, and which clearly show that his Honor was mistaken as to the facts contained in that case. In his Honor's attempt to assimilate that case to the one under consideration he says: "In that case as here the additional element was an opening covered by a transparent medium. In that case, the object of the opening was to enable the coal which passed from the upper to the lower compartment of the stove to be seen through the opening." This was an error. The only object of the openings, in that case, was to admit light from the fire into the apartment which contained the stove, to illuminate such apartment; that was the only object suggested or provided for in that case [bottom, p. 369, of opinion], and was a purpose for which openings covered by mica had been used in stoves long prior to the invention there in controversy. In that case there was no new result of any kind due to the combination of the openings in the stove for the admission of light with any other part or parts of the stove, and there was no suggestion in the patent of any such combination. The admission of light from the fire into the apartment needed nothing but the openings, without the addition or combination of anything else.

Judge Benedict continues his comparison as follows: "In this case the object of the opening is to enable the fares which pass from the upper to the lower compartment of the fare-box to be seen through the opening." In this comparative statement, the very essence and only object of the Slawson invention is left out. His Honor, in comparing the elements of the invention in the Stove Case with the Slawson invention, should have added: In that case there was no result due to the combination of the opening in the stove for the passage of light with the other parts of the stove. The windows or openings in the stove, in that case, was merely to emit light to illuminate the apartment in which the stove was

placed, and no combination or combined use of any two windows were described or suggested in that patent, and so far as appears, no such combined use was ever suggested or thought of by the patentee.

But in this case there is a new result produced by the combined use of the two windows, and a result so important that it characterizes the invention and constitutes its essence, and this result is the simultaneous reception of a knowledge of the condition of the fare by both the passenger and the driver which is a result flowing directly from the combination and is from a joint and combined use of the two windows which is entirely unlike anything in the stove case, and is new and patentable when judged by the law settled in that case. Indeed the law which was applied to and settled by this Court in that case is exactly the law which we claim the benefit of to sustain the Slawson patent. His Honor assumes and says that "no new result is accomplished by the introduction of the additional window in the fare-box." This mistake of his Honor was such as to lead directly to a wrong conclusion, and to a wrong decision of the case. This conclusion his Honor seems to have arrived at by a misconception of the *nature of the new result*. The object the inventor had in view, and which he accomplished, was to enable the passenger and the driver to inspect the fare at the same time. He produced a combination which accomplishes that identical object. That was the object sought and the object attained, and which is attained only by the joint use of the elements of that combination and constitutes the useful result of the combination.

Vision is the sense employed in the use of the invention.

Light is one of the elements used.

The windows combined are a part and an essential part of the apparatus used.

The proper position of the windows with relation to each other and to the position in which the fare is arrested for inspection is essential for producing the result.

The result produced is the simultaneous reception of the knowledge received by the passenger and the driver of the condition of the fare.

That knowledge is the result of the combination, in the words of the Supreme Court, it is a product of the *combination* and what makes the combination patentable instead of being a mere aggregate of several results, each being the complete product of one of the combined elements.

Each window co-operates with the other in the production of that result. It is a joint production. It is a new and useful result produced by a new combination of instrumentalities. The combined use of the two, properly arranged as described, is indispensable in the production of that result.

The learned Judge misapprehended the nature of the real result produced, by assuming that it must be a result produced by the operation of the physical parts of the apparatus guiding the fare to its place of destination. The useful result produced by the combination is visual in its character. A visual telegraph is operated by presenting symbols or other things to the sight, and the result produced by the apparatus employed is visual, and the apparatus employed producing the result may, and always does, consist of combinations of mechanism which enable the symbols to be seen at the same time from different places or localities, in which case the apparatus is the means, and the reception of the knowledge imparted by the symbols is the result.

If it be desirable to see a light-house from different localities simultaneously, and an apparatus be contrived, by the use of which it can be accomplished, such seeing by the use of that apparatus is the result, and, if the apparatus includes the combination of two parts, which co-act in producing that result, the seeing is the result of the use of the combination. So seeing the fare deposited in the fare-box, from two localities simultaneously, as by the passenger and the driver, is a result of whatever combination is necessarilly employed in the apparatus and is

useful, and if new, is patentable; and the more simple the combination is, if adapted to produce the result, the stronger is its claim to protection by patent.

The mental work, which the inventor of the Slawson fare-box had to do, was to think of the utility and desirability of both the passenger and driver inspecting the fare at the same time, and to discover the outlines of the plan, by which it could be accomplished, and then to contrive an apparatus, by which it could be carried out and practiced. Slawson was the first who suggested, and so far as anything appears, the first who thought of either the utility or practicability of temporarily arresting the fare, after it is deposited, in a position to be inspected by both the passenger and driver seeing it.

Point II.

THE MIDDLETON PATENT.

The patent issued to Middleton for the invention of Winchell, dated Dec. 12, 1871, is a patent for an apparatus to control light, to direct it for a particular and useful purpose. It proposes to utilize surplus light by taking it from the place where it is generated, giving it direction and causing it to shine upon a locality where needed. It deals with a fare box, the light obtained from the head light of a car and a reflector as elements of the combination.

The claim reads thus:

"what I claim and desire to secure by Letters Patent is—Lighting the interior of a fare box at night, by light obtained from the head lamp of the car thrown by the reflector, I, through an opening, H, in the head lamp box into the chamber for the tem-

porary detention of the fare for inspection, substantially in the manner and for the purpose set forth."

This is a claim to the combination of the physical elements employed, and his Honor, Judge Benedict, so understood and construed the claim. He construed it as a claim "for a combination of certain old elements, viz.: (1) a fare box with an opening at the top covered by glass or other transparent substance; (2) the head lamp of a car; (3) a reflector—in such a manner that a part of the light from the head lamp shall be reflected upon the platform of the fare box." He then adds, "the only novelty pretended consists in the arranging the fare box, lamp and reflector in such a manner that the light from the lamp will be thrown into the fare box," and then by a single blow, unaided by testimony, his Honor decides (overruling the decision of the Patent Office) that "no invention was required to so arrange these parts." It is not denied that the object attained was new and useful, nor is it denied that the combination of the elements employed, as claimed, was new and well adapted to produce the result obtained. What more there could be to justify a claim to a combination it is impossible to conceive. It is respectfully submitted that this combination, as claimed in the Middleton patent, even as analyzed by his Honor, was patentable. It certainly involved contrivance, thought and experiment, and being a combination of elements new in construction and producing a new and useful result, is all that was necessary or could exist to render it patentable, and the Judge erred in overruling the decision of the Commissioner of Patents by holding that no invention was required in producing the combination. It is not pretended that the combination was a mere equivalent or an obvious substitute for anything else. It was, therefore, a combination eminently patentable, possessing all the characteristics rendering it patentable, which were novelty in construction, in the combination and arrangement of the parts, and

the result produced. Nothing else could be added to render it more patentable.

The object was new; the result accomplished was new and useful; the means of accomplishing it was a combination of parts of apparatus; the combination of those parts was new and well described.

Point III.

The Circuit Court erred in assuming the following as the facts upon which to base its conclusions:

> "It must also be observed that the first claim described a fare-box similar in all its respects to the fare-box described in the second claim, with the single exception, that it contained but one window so arranged that the driver could see through it. *And such a fare-box the disclaimer asserts was known prior to the plaintiff's invention.* It is apparent, therefore, that the only novelty in the plaintiff's invention, as it now stands described in his patent, consists in the additional window so arranged that a passenger by looking through it, can see the fare deposited by him."

It has already been shown in Point I. that even in view of the weight attributed to the disclaimer by the Circuit Court the conclusion as to the patentability of Slawson's second claim was erroneous.

Our present point is that his Honor, Judge Benedict, erred in accepting the disclaimer as sufficient evidence, that the fare-box of the first claim "was known prior to the plaintiff's invention" of the fare-box of the second claim.

If this point shall be sustained, no fact will remain to support the conclusions in the opinion of the Circuit Court.

Beyond the statements contained in the dis-

claimer, there is no evidence in the case to show why it was filed.

The defendant's proofs and pleadings made no reference to it, and there was nothing presented either in the disclaimer itself, or by the proceedings in the case, which would have made it competent for the complainant to explain why it was filed. Complainant performed his whole duty when he produced it with the patent to indicate his present claim, and until the argument of the case he had no knowledge that it was expected to be referred to for any other purpose.

The practice is to file disclaimers for a variety of causes.

Sometimes they are filed to get rid of a claim in a reissue patent for an invention different from and made subsequently to that set forth in the original patent.

Schillinger vs. Gunther, 17 Blatchford, 66.
Atwater Mf'g Co. vs. Beecher Mf'g Co., 8 Federal Reporter, 608.
Tyler vs. Galloway, 12 F. R., 567.

Sometimes they are filed to get rid of a broad claim which has been certainly ascertained (as by a decision by the Court), to cover something known prior to the patentee's invention.

Sometimes they are filed to get rid of a broad claim, of which the anticipation is possible, but doubtful, because the patentee wishes to avoid the expense of litigating the novelty of the broad claim, and is willing to confine himself to the narrow claim.

In each of the instances above referred to, it would be perfectly proper and true for the patentee to allege in the disclaimer:

> "That he has reason to believe that the specification and claim of said Letters Patent are too broad, including that of which said patentee was not the first inventor."

The Circuit Court concluded, without further evidence, that the disclaimer was filed because the combination of the first claim was invented by some one else before Slawson invented the combination of the second claim.

The disclaimer does not necessarily lead to such conclusion. It would be equally proper to conclude that the disclaimer was filed to get rid of a broad claim, as for a sub-combination, which was injected into the patent by reissue.

Slawson's patent is a reissue. The original patent is not in evidence. But suppose it were. Suppose the second claim of the reissue were (as it is in fact) substantially the same as the claim of the original. Then the first claim being for a sub-combination, would have been improperly placed in the reissue and would be invalid as being for an invention not described and claimed in the original patent. If the reissue patent, thus situated, had been brought into Court, Slawson would have been ordered to disclaim the first claim, as a condition of receiving a decree on the second claim. The grounds of such order would by no means be that the sub-combination of the first claim had been known before Slawson invented the complete combination of the second claim. The grounds of such order would be that the original patent did not show Slawson to be "the first inventor" of the sub-combination. Such sub-combination might have been invented by some one else subsequently to the issue of Slawson's original patent.

Suppose the facts to have been as follows:

That Slawson obtained an original patent with his present second claim in 1857. That in 1871 (the date of the reissue) some one devised an arrangement by which he constructed a useful fare-box with only one opening for the inspection of the fare. That Slawson, being erroneously advised, reissued to cover this new fare-box by his first claim. That subsequently (under better advice) Slawson saw that in making his first claim he had claimed a

sub-combination, of which he was not the first inventor, and (acting with diligence, which was required) filed his disclaimer, setting forth, as he did, "that he had reason to believe that the specification and claim of the reissue were too broad, including that [the sub-combination] of which the patentee was not the first inventor."

Under such circumstances, the disclaimer should carry with it no evidence that the sub-combination was known before the invention of the completed combination.

Who can say that such were not the circumstances under which Slawson filed his disclaimer? The disclaimer does not. The evidence in the case does not. Yet the opinion of the Circuit Court does, and on that erroneous assumption of fact is founded the conclusion of the opinion.

We submit that where such an explanation of the possible cause of making the disclaimer exists, it is an error on the part of the Circuit Court to assume, without further evidence, that it was made for another cause which, if existing, might encroach upon the novelty of the remaining claim.

When Slawson in his disclaimer said he "had *reason to believe* that he was not the first inventor" of the sub-combination of the first claim, he might have had in mind any one of a number of "*reasons*" for his belief, some of which might affect the amount of novelty in the second claim and others not. There is no evidence as to which *reason* he had in mind, and it cannot legally be assumed to have been any particular one for the purpose of defeating the patent. It would be much more consistent with the weight of authority to assume it to have been one of those reasons which would not defeat the patent.

The case of O'Reilly vs. Morse, 15 Howard, 120, is an authority for the filing of a disclaimer under still another *reason*. This Court there directed the patentee to disclaim the eighth claim because it covered

matter not properly described in the specification. In the opinion (p. 120) the Court said:

> "The evil is the same if he claims more than he has invented, *although no other person has invented it before him.* He prevents others from attempting to improve upon the manner and process which he has described in his specification."

How unjust would it have been to Morse, if, after filing his disclaimer of the eighth claim in the form prescribed by the Patent Office, it had been accepted as evidence in subsequent suits that the subject-matter of that claim had been known before his invention, for the purpose of showing want of novelty in his invention.

But suppose we assume for the argument that Slawson's *reason* which he referred to in his disclaimer related to some device which he had in mind as existing prior to his original invention. Even then the disclaimer would not be sufficient, without further evidence, to curtail the novelty of the second claim, and for the following reasons:

1st, Because the disclaimer does not say positively that the combination of the first claim was old. It merely says that the specification and claim of the patent were "too broad, including that of which said patentee was not the first inventor," which may or may not have referred to the exact combination of the first claim. It does not say positively to what extent they were too broad, or what they included of which the patentee was not the first inventor. This is only implied by his disclaimer of the subject matter of the first claim, which is not sufficient.

2d. Because the disclaimer does not say positively that *anything* was old and does not say *what* was old. It simply says that the patentee *has reason to believe* that something is old. It does not state that

the patentee *knew* anything to be old. The patentee may have heard rumors of an alleged prior structure (the very existence of which was uncertain) which though imperfectly recalled seemed likely to contain certain features which anticipated the first claim under a broad construction. This may have been all the foundation the patentee had for his belief, and yet, conscious that the second claim answered his purpose, and anxious to remove all uncertainty from his patent, it was most reaonable for him to disclaim the first claim. Why should a *mere belief* of the patentee on which he filed his disclaimer as to the first claim he accepted as proof of the existence of a *fact* to defeat the second claim? How often does it happen that a prior use is made to appear so plausible by rumor and even by testimony as to appear almost un-assailable and give even the inventor every reason to believe that it anticipates his claim. Yet how often does a thorough investigation, by assailing the integrity or recollection of witnesses as to dates and structures produce convincing proof to overthrow the alleged prior use. If when the prior use had every appearance of anticipating one of his claims, such patentee had said he "had reason to believe" that claim to be too broad, and had (to save controversy and uncertainty concerning it) disclaimed that claim and contented himself with reliance on another claim, should such statement be construed as an assertion that the prior use was a fact for the purpose of defeating the claim which he never disclaimed? Had the public a right to assume from the text of Slawson's disclaimer that his whole fare-box was old save the addition of the passenger's window? Even if it be assumed that Slawson says he had reason to believe such to be the fact and therefore disclaimed the first claim, were not the public bound to investigate the grounds of that belief and be prepared to place them before the Court in assailing the validity of the claim not disclaimed?

The disclaimer can only be used to affect the

validity of the patent as an *admission* of the patentee. What did his admission, that he had "reason to believe" that his patent was "too broad, including that of which he was not the first inventor," amount to? Did it amount to an admission as assumed by the Circuit Court of the fact, that the subject of his first claim had been known before his invention of the subject of the second claim? We submit that for the several reasons stated it did not, and that it should have no weight in determining the novelty and patentability of the subject of the second claim.

The burden of proof is on the defendant to prove want of novelty beyond a reasonable doubt.

We submit that the disclaimer as evidence leaves it uncertain as to whether or not the fare-box of the first claim "was known prior to the plaintiff's invention," as assumed by the Circuit Court.

This doubt should be resolved in favor of the patent.

Point IV.

NOVELTY SLAWSON PATENT.

As the questions involved are purely questions of law, it is supposed that the Court can and will dispose of the case by determining whether or not the Court below was right or wrong in the conclusions at which it arrived, that neither of the patents sued on was for a patentable invention. But in case any of your Honors should deem it worth while to look into the question of priority of invention, the following points are submitted which contain the substance of the argument used for the complainant in the Court below in answer to the allegation of priority of invention.

To establish the want of novelty two, and only two, alleged prior uses have been made the subject of testimony. One of the alleged prior uses attempted to be proved on the part of the appellee is that in 1855 and some time thereafter, a colored steward named Lawrence on the packet ships of the Black Ball line in New York used a box to receive money given to him by passengers on the vessels, substantially like the Slawson box and identical in construction and operation with the fare-boxes used by the defendant, and against which this suit is brought.

This story, like most fiction, contains some elements of truth. The facts are that there was such a line of vessels in New York. There was a colored man named Lawrence who was steward at *some time* on those vessels, who at *some time* had a box of some kind in which he received money given to him by passengers.

The part of the story which is not true is that the box used by Lawrence was like or substantially like the fare box described in the patent, and that Lawrence was employed on the Black Ball line of vessels in 1855. Only one witness was produced to prove the use and identity of the box. This witness was James Kirkland. He speaks entirely from memory respecting the particular construction and operation of the box which he says he saw another man use 24 years before. His memory is entirely unaided by anything. The box he says he saw is not produced, and no record or memoranda of any kind is produced to corroborate his statements. He produces a box which he never saw until testimony was being taken in this case, which box, he says, is "just like" the box which he says he saw 24 years before.

The box thus produced is identical in all its details of construction and mode of operation with the fare-boxes in use by the defendant. That fact alone when considered in connection with what is necessary in a fare-box and what was not necessary in the use of a box merely to receive contributions of money

given to a man by passengers as presents, is sufficient to brand the story as a falsehood.

Let us see. The object of a fare-box in a street car or omnibus is to prevent fraud on the part of the driver or conductor, and to enable the driver or conductor to correctly collect the fare and the passengers to see and know what fares are paid. To accomplish those objects the box must be so constructed that the driver or conductor has means of knowing that all the passengers have paid, and that each passenger has paid the correct fare, and the passengers must have means of seeing and knowing what fares they have deposited. To accomplish those ends there must be provision for the fares deposited to be isolated from the fares previously accumulated in the box. For that purpose the fare last deposited into the box must be arrested while on its way to the drawer in which the fares are to be accumulated and there remain long enough for the driver and passengers to inspect the fare. For that purpose the fare-box is provided on the inside with a platform on which the fare is to drop, and by which it is to be held long enough for the driver and passengers to inspect it. This platform must be so constructed that the driver, after it is ascertained that the fare deposited is correct, can cause it to fall from the platform into the drawer.

The best construction for that purpose, and the one which has been generally used, is to construct a platform so that the driver can tilt it and let the fare drop into the drawer where the fares are to be accumulated.

This provision for arresting and holding the fare for the inspection of the driver and passengers, and then causing the fare to drop into the drawer, is indispensable in fare-boxes. No such provision is indispensable or necessary in a mere contribution-box, and it is unreasonable to suppose that any one in 1855 had such an arrangement constructed for a contribution-box. The necessities of a fare-box de-

mand that construction. A contribution-box does not. No such construction being necessary or important in a contribution-box, it might have been expected, as the fact is, that no contribution-box containing that provision was ever known or heard of. How, then, did it happen that Kirkland said that Lawrence, the colored steward, had a contribution-box unlike ordinary contribution-boxes, and containing the peculiarity which is demanded only for use in a fare-box, and which is not known to have ever existed or been needed in any other box, or to ever have existed in a box of any kind before the introduction of fare-boxes for the use of street cars and omnibuses? The answer is that he knew what it was important to prove for the defendant, his employer.

The defendant company is sued for infringing a patent by the use of boxes purchased by it from its president, Wood. It needs evidence for defense. It produces one of its employees who is a brother-in-law and tenant of Wood, and who was employed by Wood for twenty-four years prior to being employed by defendant, and was given employment on its road by the "orders" of Wood (page 118, Question 46 to 50), as a witness to prove that in the City of New York the colored steward on the Black Ball line of packet ships in 1855, long before fare-boxes were in use in New York, and long before any boxes were in use, containing the identical and necessary peculiarities of a fare-box above specified, used a box like the one, a model of which the witness produces, and which is identical in all its details with the fare-boxes used by the defendant, and with which the witness has been familiar, and which defendant wishes to prove was known before the time of the invention of appellant.

From these circumstances the conclusion is irresistible that the box, a model of which is produced by the witness as being like the one used by the steward, was made in imitation of

the fare-boxes used by the defendant. It is said that where the narratives of two witnesses of an occurrence agree in all minute details, it is a circumstance tending to prove that their narratives have been assimilated to each other by agreement. This box produced by the witness, containing parts peculiar to fare-boxes, and not necessary in contribution-boxes, and a mode of operation indispensable in a fare-box, and not indispensable or of any importance in a contribution-box and being a *fac simile* of the defendant's fare-boxes, and one witness only being produced to prove that the colored man used a box in 1855, containing those exact peculiarties, and for a purpose for which those peculiarities were not needed and that witness, being an employee of the appellee, and having been a crony of the defendant's president, both in this country and Ireland, from where they both came, constitute a chain of circumstances tending strongly to prove that the box produced was patterned after the fare-boxes in use by defendant, and showing it highly probable, even without contradictory proof, of which there is an abundance, that the statement of that witness is a fabrication, got up to gratify his friend Wood and protect his employer from the charge of infringement.

This witness Kirkland's examination-in-chief is on page 116.

The manner of examining him shows the weakness of his testimony and that he was testifying to what never existed. It will be noticed that he was not asked to *describe* any box which he says he saw Lawrence have. On the contrary, his examination is the most possible leading character. He is shown a box like one of defendant's fare-boxes and is asked if he ever saw "anything just like it." To which he answers "Yes," and then, without the witness having said that he had ever seen it in use at all, he is asked *where* he had seen it in use.

This examination was as leading as it would have been if the counsel had included in his question a statement of every part and peculiarity which

he wished to prove the box contained, and then had asked the witness whether he had ever seen a box containing just those parts and peculiarities to which all he need to say is yes. Such is the effect of first showing a witness the apparatus, or device, of which one wishes to prove the prior existence, and then asking the witness if he ever saw a thing like that.

Such was the manner in which the answers of the direct examination were extracted from the witness, Kirkland.

The manner in which he was prepared for examination by Mr. Wood, defendant's president, appears in the cross-examination, at page 120. This was conducted in the same way as was his examination-in-chief, which was by showing the witness the box which the defendant wished to get in evidence and asking if he remembered a box like that. It was conducted thus:

> "x-Q. 74. When did you know you were to be a witness in this case?
>
> "A. Last week.
>
> "x-Q. 75. Was that the first time?
>
> "A. Yes, sir.
>
> "x-Q. 76. Who spoke to you about it?
>
> "A. Mr. Wood.
>
> "x-Q. 77. What did he say to you?
>
> "A. He asked me if I remembered a box like that (showing me Exhibit 6); asked me if I remembered seeing it."

To show to what extent the leading effect of the exhibition of the box was depended upon in getting the desired answer from the witness, and as to how destitute the witness was of any recollection that the box he says he saw Lawrence have was like the fare-box of the defendant, it is only necessary to refer to his cross-examination, page 120, questions 78 to 81; and to page 121, question 111, which reads thus:

> "x-Q. 111. Please describe particularly, and in detail, the box that was repaired?

"A. The box was the same as that; a little larger and wider at bottom; of tin and iron; glass upon the sides of it near the top; pretty near the top on the sides of it all around; a drawer in the bottom with lock and key in it."

Here, when the witness was so pressed to describe the principle of what he saw, that he was compelled to describe something, he described a box without the tilting platform and one corresponding in that respect with the box "Exhibit Tilghman," which another witness testifies was the only kind of box which Lawrence ever had on those vessels, and when asked to describe particularly, and in detail, the box which Lawrence had, he again describes the box without the tilting platform and with no material part except what is in "Exhibit Tilghman." At page 133, cross-question 360, he is asked whether the box had a glass plate on top, as in "Exhibit 5," and says he is not certain there was. Then, being asked, by cross-question 361, how he could say it contained the other things, answers, "From my recollection I think they were there."

This is not only the character of Kirkland's testimony, but it is the only testimony produced to defeat the Slawson patent, by proving an anticipation so far as the use of a box by Lawrence is concerned.

This witness, when interrogated on matters which he considered important for the defendant, his memory of details respecting things which, at the time of their occurrence, such as the construction of the box, which he says Lawrence had, was of no importance or interest to him, appeared to be very good; but when interrogated on matters which were of importance to him when they occurred, but which he does not understand are of any importance to the defendant, his memory entirely fails.

He does not recollect:

1. The names of the men in Wood's shop where he worked and where he says the box was repaired (page 121, Q. 98).

2. Nor the name of the vessel from which he got

the box, and to which he returned it (page 121, Q. 107).

3. Nor when his five dead children were born (page 124, Q. 175 and 176).

4. Nor when he was married the first or second time. [He was married once in Ireland and once in this country.] (Pages 124 and 125, Q. 180, 182 and 184.)

5. Nor the year he left Ireland (p. 119, Q. 54).

6. Nor the amount of his passage money in coming to this country (page 117, Q. 20).

7. Nor the names of his teachers at school (page 119, Q. 60).

8. Nor the year he became a citizen of the United States (page 119, Q. 62).

9. Nor the year he first voted or last voted. (Page 134, Q. 379–80.)

10. Nor when or about when he went to work at Wood's foundry. (Page 127, Q. 246–7).

11. Nor for how long he worked at Wood's store. (Page 118, Q. 41).

12. Nor whether Wood has gone bail or security for him or any of his family. Page 140, (Q. 514–15.)

13. Nor if he had ever been a witness for Wood or in any case where Wood was interested. (Page 139, Q. 484).

The deposition of this witness not only contains intrinsic evidence of want of reliability, but he is contradicted by several disinterested witnesses.

Kirkland, on his direct-examination (folio 211), says that it was in 1855 when he saw the box on board the ship belonging to the Black Ball line.

At folio 218, he states that after the box was mended he delivered it to Lawrence, who was in charge of the vessel.

At folio 225, cross-question 198, he says that the steward, Lawrence was called a port-steward, and showed the passengers their berths before going to sea.

There are five witnesses who swear that Lawrence

was not employed at that place in 1855; but on the contrary, they swear that at the time Kirkland says Lawrence was at work on the ships of the Black Ball line, namely, in 1855, he was at work at the foot of Warren street, for the California Steamship line.

McGee says (page 19, cross-question 24), that Lawence was at work at the Warren street dock from 1851 to 1858, inclusive.

Hall says that he worked for the California steamers from 1854 to 1859 (folio 38).

When he commenced Lawrence was employed there and continued for several years (page 21, questions 17 and 18.)

Merrill says that Lawrence was in the employ of the California steamers from 1852 to 1859 (folio 42.)

Fisher says that Lawrence was at work on the California steamers, at Warren street dock, from 1848 to the war (folio 45); that he was intimate with Lawrence about fifty years; that he knew of his being employed on the Black Ball line in 1832, and that he left that line about 1835 (pages 23 and 24, Q. 7 to 18); that after he left the Black Ball line he went into a club house; thence on the steamer Washington; thence in the pickle business; thence on Griswold's London line.

Tilghman says that Lawrence, at the breaking out of the California gold fever (which is well known to have been in 1848–9), was engaged with the California steamers (page 28, questions 28 and 29), and remained there eight or nine years (question 37). Lawrence was sailing steward on ships of the Black Ball line from before 1832 to 1835, and at that time had a box, like the model "Exhibit Tilghman." This box was entirely unlike a fare-box. Tilghman testifies to Lawrence having a box like "Exhibit Tilghman," on a ship of the Black Ball line (pages 26 and 27), thus:

"Q. 5. Did you ever know a George Lawrence?

"A. Yes, was intimately acquainted with him.

"Q. 6. Was he a colored man?

"A. Yes, sir.

"Q. 7. Is he living or dead?

"A. He is dead, sir.

"Q. 8. Are you a colored man?

"A. I am, sir.

"Q. 9. Where has the dock of the Black Ball line always been?

"A. Ever since I can recollect, and that is over forty years, at the foot of Beekman street.

"Q. 10. Did that line ever have a port-steward?

"A. No, sir; never.

"Q. 11. Was Lawrence ever on that line?

"A. Yes, sir.

"Q. 12. What did he do?

"A. Always went steward.

"Q. 13. Sailed with the ship?

"A. Yes, sir.

"Q. 14. Did you ever visit Lawrence on board the ship at the foot of Beekman street?

"A. Yes, sir.

"Q. 15. Did you see him have a box there—a money box?

"A. I did.

"Q. 16. Where was the box?

"A. On the cabin table.

"Q. 17. What was the box for?

"A. For the donations of different institutions.

"Q. 18. How often did you see that box there?

"A. I have seen it a dozen times.

"Q. 19. Did you ever look into it?

"A. From the outside, yes; from the face of it, could see through the glass.

"Q. 20. What did you see in it?

"A. I have seen money into it.

"Q. 21. In what part of the box was the money lying?

"A. In the drawer.

"Q. 22. What was that box made of?

"A. Of mahogany, I think.

"Q. 23. Anything else?

"A. No, sir.

"Q. 24. Was there any glass to it?

"A. A glass front.

"Q. 25. Would you recognize a model of that box if it were shown to you?

"A. Yes, sir.

"Q. 26. You say the box was made of mahogany, you think; do you or not mean that it was made of some wood?

"A. It might have been mahogany or it might have been stained; it was made of wood anyhow.

"Q. 27. Look at the box now shown you and state how it corresponds in construction with the box you saw with Lawrence.

"A. That is the way the other was made as near as could be."

At page 28, questions 30 and 31, Tilghman swears that Lawrence left the Black Ball line before the breaking out of the California gold fever, and did not return to that line.

The conclusion, therefore, is irresistible that Lawrence did not have *any* box on the ships of the Black Ball line in 1855; that he *never had anywhere such a box* as Kirkland swears to and is represented by model "Exhibit 6," and that he was not employed on the ships of the Black Ball line in 1855.

The second alleged prior use, attempted to be proved, is that of James Rodgers.

This alleged use is attempted to be proved by William H. and Anthony Rodgers, sons of the said

James Rodgers, who died in 1877, and before this suit was brought.

William H. Rodgers testifies that he saw fare-boxes, such as are used in cars, about 1853, at his father's shop. Thinks he saw them a little while afterwards in John Stephenson's. "Exhibit No. 1," he says his father made. Cannot recollect when he first saw them in use. (Page 70, question 16 to 23.)

Went to Philadelphia in 1854; stayed there eighteen months; when he returned, heard of a sale of boxes, &c., to Mr. Slawson. (Questions 30 and 31.)

Anthony Rodgers testifies:—First saw a fare-box in 1855, in his father's place. Saw "Exhibit No. 1" "many a time"; saw it at that place, "at that time." (Page 98, questions 9, 10 and 11.)

"A great many," were made by his father; they were composed of cast iron, brass and glass. (Question 16.)

"Guesses" from bills and books that they must have been at work on them in 1853. (Question 17.)

These two Rodgers witnesses are substantially correct as to kind of events, but are entirely wrong as to their dates.

The testimony clearly shows that their father, James Rodgers, never constructed a fare-box until late in 1857, or early in 1858. This is conclusively proved by evidence both oral and documentary.

John Stephenson, who was the pioneer car and omnibus builder of the United States, and occupied the leading position in that business for many years, testifies (page 34, questions 3, 4 and 5,) that he knew James Rodgers more than 20 years before his death; was associated with him in putting clocks in public schools about the year 1854, and in the construction and application of registering machines in omnibuses and street cars from about 1854, till his death, and also in the construction and application of fare-boxes for about two years, from about the year 1857. That he, Stephenson, imported a registering machine from Paris, and suggested to Rodgers the manufacture and introduction of it in

omnibuses in the United States. That Rodgers accepted the suggestion and acted on it. That he afterward called the attention of Rodgers to fare-boxes; which were about superseding the registers' and thinks it was in 1857.

Mr Stephenson (page 35 testifies thus:—

"Q. 14. How frequently was Mr. Rodgers in your place of business from about 1854 until about 1859?

"A. At intervals he was there every morning, or nearly so—scarcely a week passed for some years without seeing him.

"Q. 15. Did Mr. Rodgers ever tell you that he was about to get up a fare-box?

"A. He did.

"Q. 16. At what time was this?

"A. About the beginning of 1858.

"Q. 17. Did you ever get any of his boxes from him?

"A. I did.

"Q. 18. Can you state the time—about?

"A. In the former part of that year.

"Q. 19. In what year, if at all, did you have Slawson fare-boxes in use in this city?

"A. In 1857 and thereafter."

Mr. Stephenson testifies (question 21 to 26), that Rodgers did not construct his box until after he knew of Slawson's patent, and that he, Rodgers, knew that the boxes he constructed interfered with the Slawson patent, and that for that reason he had compromised with Mr. Slawson.

Wm. H. Rodgers is directly contradicted by both oral and documentary testimony.

1. He says he saw fare boxes at his father's about 1853, page 70 (Ques. 17) and he thinks he saw them at Stephenson's shortly after (Ques. 20).

It is proved by Stephenson that he had no Rodgers boxes until 1858 Ques. 16 and 18, page 35).

Mr. Delamater, the clerk of Mr. Stephenson, pro-

duces the Rodgers bill for those boxes, which is dated July 6, 1858 (folios 71 and 112).

2. Rodgers also says that on his return from Philadelphia (which he says was about July, 1855), page 73, Ques. 80 and 81, he heard of his father's sale to Slawson (Ques. 31). It is proved by the assignment itself and the statement of Rodgers that the sale was not made till August, 1858 (pages 68 and 69).

3. Wm. H. Rodgers also says, that he thinks he heard his father had a patent for the box before he went to Philadelphia (which he says was about January, 1854). (Page 73, Ques. 68, and page 75, Question 105.) It is shown that the patent was not applied for or isssued till 1858 (page 65).

4. Wm. H. Rodgers also says that the boxes were made before he went to Philadelphia, and he worked on them (page 77, Ques. 151, 153).

It is proved that as late as April 5, 1858, Rodgers had none made (folio 108).

Anthony Rodgers says he joined the navy in latter part of 1855 or early part of 1856 (page 104, cross-question 122).

He also says he was at the Navy Yard for eleven months from the time he commenced and "may be more" at sea (Q. 123).

He also says, that he left the navy election night, November, 1856 (Q. 128).

How could he be about eleven months at the Navy Yard, and then on the expedition "may be more" than eleven months, and be discharged November, 1856, which was only ten months from the time he commenced at the Navy Yard? By this statement he makes the laying of the first Atlantic Cable before November, 1856, when it is common knowledge that it was not laid till in 1858.

He also says that he saw the model in 1855 and fixes this date by his going in the navy (Q. 122).

On being asked what that has to do with his seeing the box he says that he *thinks* the box was the

last job he was on previous to his joining the navy. (Page 107, Q. 144–5–6).

Now, as above shown, there was no box made till 1858 and it was about the beginning of 1858 when his father, James Rodgers, first told Mr. Stephenson that he was about to get up a fare-box (page 35, questions 15 and 16).

He also says that he fixes the date of 1855 as the time when he saw the box, from the books and papers of his father. They are not produced.

But the bill of his father, produced by Mr. Delamater, clerk of Mr. Stephenson, is dated July 6, 1858 (page 58), and therefore contradicts the statement of Anthony Rodgers.

He says that he worked for his father (cross-questions 52 and 53), and that he heard his father speak of his patent (cross-question 191); cannot say if this was before going in the navy (Question 193).

Now, the patent was not applied for or granted till February, 1858 (page 65).

There is also written contemporaneous evidence showing that the invention of Rodgers in a fare-box was after he had knowledge of the Slawson invention and that Rodgers' specification purported to describe only an improvement on Slawson's invention.

On April 5, 1858, no Rodgers boxes had been made, for Mr. Stephenson then wrote Slawson & Co :

> "We have deferred writing for a few days, hoping to send you one of Rodgers' fare-boxes, *but he has none yet completed.* * * * We understand that Rodgers is preparing fifty of these boxes for the Fourth Avenue line, belonging to the Consolidated Co." Page 56, folio 108.

Mr. Stephenson in this letter minutely describes how the Rodgers' box was to be constructed and advises Mr. Slawson what course to pursue in reference to its infringing the Slawson patent. This shows clearly that it was understood that no invention of Rodgers preceded the patent of Slawson.

Before the writing of this letter of Stephenson to Slawson, Rodgers applied for and obtained a patent for his alleged improvement in the Slawson fare-box. The application and patent clearly state that he knew Slawson's invention preceded his.

The Rodgers specification was dated and sworn to January 30, 1858, and filed February 5, 1858, being nearly seven months after the issue of the Slawson Patent (pages 62 and 65).

In his specification, Rodgers says :—

> "*A box for receiving passengers' fares in stages, &c.*, HAS BEEN INVENTED AND PATENTED BY J. B. SLAWSON, *July 28, 1857, in which a hopper or receptacle of glass has been used with a slide at the bottom so that after the money has been placed in said hopper, and the driver sees it to be correct, the slide is withdrawn, and the money allowed to drop into a box.* In this instance, the glass sides forming the hopper are stationary, *and if the money becomes* CLOGGED AT THE MOUTH, in consequence of several pieces lying together, there is no opportunity for the driver readily to rectify the evil.
>
> "MY INVENTION, THEREFORE, DOES NOT CONSIST IN THE USE OF A GLASS SIDED HOPPER AND DRAWER, but my invention relates to the construction of a glass sided hopper *with one side movable*, so as to act to close the orifice to the money box and also to *relieve any money that might be jammed between said glasses*, by the one side moving away from the same and permitting the money to fall into the drawer" (page 63).

Rodgers, here, in regard to clogging, obviously has reference to some boxes which had been constructed for Slawson by Stephenson, under the Slawson patent, but contained slight alterations in the construction, for which alterations a patent was afterwards granted to Slawson as assignee of one Reeves. The specification then proceeds to give

minor details of the construction of what Rodgers calls his "*improved* money box."

At the time of the filing of the Rodgers application, complainant's patent had been issued, and as Rodgers claimed only certain modifications of and additions to the former, the Patent Office granted him a patent for the same without any hesitation, on February 23, 1858, only eighteen days after the filing of his application.

The specification annexed to the Rodgers' patent is the same as that originally filed.

The next event was the sending of a notice by the complainant's firm to Rodgers, warning him against using his box, on the ground that it was an infringement of the Slawson patent. Mr. Stephenson, page 37, question 43, testifies on this point:

> "Such notice was served by directions from my office; Mr. Rodgers acknowledged to me the reception of such notice."

On May 21, 1858, Mr. Stephenson, page 57, writes to the complainant's firm:

> "* * * Your favor of 5 April was received (we thought we had already acknowledged it), and the notice served on Mr. Rodgers immediately by our Mr. Delamater."

The next event was a negotiation between Rodgers and the complainant, which led to the sale of the Rodgers' patent to the latter, August 18, 1858. This assignment was recorded August 28, of the same year (page 68).

The evidence for complainant may be thus summarized:

Mr. Stephenson, about the year 1856, commenced negotiations with the complainant as to the latter's fare-boxes.

In 1857 he put them into use in the city of New York. Rodgers, in those days, was frequently in Mr. Stephenson's works, where, no doubt, he saw the Slawson boxes. Owing to the peculiar construction of the mouth-piece of the Slawson box

containing the Reeves alteration, the money would clog therein and cause trouble.

Mr. Stephenson called Rodgers' attention to the box. They had been associated with a car-register which served an analogous purpose. Rodgers doubtless observed the clogging of the fare-box, and set about remeding the difficulty.

About the beginning of 1858 he told Mr. Stephenson he was about to get up a fare-box. By February, 1858, he had completed his invention, and in that month applied for and obtained a patent, wherein he distinguished his invention from that of Slawson. In April, 1858, the complainant, hearing from Mr. Stephenson that Rodgers was about making boxes, notified the latter not to do so. This notice was served through Mr. Stephenson. Rodgers acknowledged that his box was an infringement. He, consequently, for a small sum sold his patent to the complainant, and gave him a full written statement of what he had done with the boxes he had manufactured.

It is clear, therefore, that Rogers did not commence to invent his box until late in 1857 at the earliest. Mr. Stephenson, it has been shown, had the fullest opportunity of knowing Rodgers' progress. He testifies, page 38.

> "Q. 45. If said Rodgers had before 1857 got up a fare-box, how likely would he have been to have shown or spoken of it to you at the time?
>
> "A. Mr. Rodgers' connection with checking received fares in omnibuses and cars emanated from me. His efforts and activity in that direction were instigated by me, and there was no movement made by Mr. Rodgers that I am aware of, with which I was not conversant, because it was through me he expected to market it, and my approbation of the invention was a necessity for its success.
>
> "Q. 46. Question repeated.
>
> "A. It was extremely likely that I should have known it."

The first of the aforesaid alleged prior inventions is supported by only one witness, who speaks purely from memory of what he says he saw twenty-four years before.

The second of the alleged prior inventions is supported by the testimony of two witnesses, who speak as to what they say they saw twenty-four years before.

The testimony as to both of said alleged prior inventions is fully answered by contradicting proof.

THE MIDDLETON PATENT.

There is no alleged defense of prior use of the invention covered by this patent.

Geo. Gifford

Livingston Gifford

Supreme Court,

OF THE UNITED STATES.

JOHN B. SLAWSON,

Appellant,

against

THE GRAND STREET, PROSPECT PARK & FLATBUSH RAILROAD COMPANY,

Respondent.

Respondent's Brief.

DAVID C. VAN COTT,
Of Counsel.

ALBERT G. McDONALD,
Solicitor for Respondent.

Brooklyn:
W. S. BENNETT, Law Printer and Stationer,
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RESPONDENT'S BRIEF.

This is an appeal from a decree entered in the Circuit Court of the United States, held in and for the Eastern District of New York. The suit was brought for cause of alleged infringement of two certain Letters Patent owned by the appellant. The Circuit Court decided that the patents sued on were void and dismissed the bill with costs.

The questions raised here are those of infringement, prior use and the validity of the Letters Patent. The defendant made no objection to both patents being sued on together. The first known as Letters Patent No. 121,920, for an "Improvement in Fare Boxes," consisting of a means of lighting a fare box by the head lamp of the coach or car; the second known as re-issued

Letters Patent No. 4,240, for an "Improvement in Passenger Fare Boxes," consisting of a supposed improvement in the form of their construction.

The learned Judge, in rendering the decision of the Circuit Court passed over the testimony taken on behalf of the respondent to show a prior use or want of novelty, and of no infringement of the two alleged inventions, and considered the question of *validity* on the proofs of the complainant (appellant) only, and thereupon decided that the two Letters Patent were void for want of invention, appearing in complainant's record.

It is, however, deemed proper to refer to matters in evidence for the consideration of this Honorable Court, in addition to those mentioned in the opinion of the learned Judge.

And these are :

1. The invalidity of Letters Patent No. 121,920, granted to James F. Winchell December 12th, 1871, for an "Improvement in Fare Boxes," consisting of the means of lighting fare boxes.

2. The invalidity of re-issued Letters Patent No. 4,240, granted to complainant January 24th, 1871, for a "Fare Box."

3. The failure on part of complainant *to prove the alleged fact of infringement.*

4. The proof that there was prior use and consequent want of novelty.

5. The *inaccuracy* of models produced by complainant to prove either *fact of novelty or of infringement.*

6. The state of the art at the time of the alleged inventions by reference to the record and matters of common knowledge.

We call the attention of the Court to the fact that although both patents are united in one suit, and although one patent is for a *fare box* and one for *the means of lighting*, there is no connection between the two except that one is for the *means of lighting any fare box* to which it can be adapted. *The means of lighting in suit could not be applied to the fare box in suit.*

We will consider first the means of lighting *a* or any fare box, and show that the supposed invention contains no element of *novelty*.

I.

As to novelty in means of lighting fare boxes.

The Letters Patent No. 121,920 in the specification refers to the disadvantages supposed to attach to the use of a special lamp for lighting, fastened to the box itself, and proposes to remove those disadvantages by utilizing the head light of the car. The idea was possibly good; the advantage desired to be secured may have been considerable.

But invention does not consist in an abstract idea nor is it the advantage gained, but the means or method of accomplishing the result.

The means employed is a reflector. It appears that the patentee claims "lighting the interior of the fare box" by certain means. He does not claim the box nor the head-light, nor any construction or

combination of both or either. And, though, to explain the object and use of his invention, the description of both box and head-light is necessary, he claims and can only claim the means of accomplishing the result, to wit: *by a reflector*. He describes an opening in the top of the box or, if preferred, a window in the side to admit the light, but does not claim either. The scope of his claim is lighting by means of light *reflected* from the head-light by means of the reflector "I."

This does not constitute that exercise of the inventive faculty which the Patent Laws are designed to reward.

If it should be urged that the claimed invention consists in *lighting the box by means of the head-light*, by the use of any well known means, none other being described or claimed, the answer is that this would not constitute invention; for the source of the light used, or (the motive power as in machinery) or any element or force of nature does not become the property of any man. The inventor is rewarded only for the *means of utilizing* the forces or laws, or materials which nature affords.

If it should be urged that the invention consists in a combination of head-light, fare box, reflector and opening in the fare box to admit the light, the answer is simply that *such is not the claim* (see claim; also complainant's model of invention and of infringing device, also proof as to infringement). The claim is not for a combination of parts but for a means, to wit, the reflector.

Or if it should be urged that a *liberal* construction of the patent would prompt the Court to decide that it is invention to utilize the light from the headlight, that cannot be claimed to be invention, for there is no invention in availing of a natural element.

Invention consists solely in a *new* MEANS for producing some useful *result.*

Evans vs. Eaton, 3 Wheat., 514; Marshall, C. J.
Beau vs. Smallwood, 2 Story, 408.
Hovey vs. Henry, 3 West, L. J., 155.
Davool vs. Brown, Id., 151.
Hailes vs. Van Worme, 20 Wal., 354; Woodbury, J.

In the Winchell patent, the material or source of light, means of diverting and result, the combination and method of operation are so well known to be old that it is almost a wonder the complainant should suppose he possessed a valid patent.

A comparsion of complainant's models with the descriptions and claims in the Letters Patent and the supposed infringing devices will make the truth of this assertion still more evident.

II.

AS TO VALIDITY OF CLAIMED INVENTION OF THE FARE BOX AND THE EFFECT OF DISCLAIMER.

In respect to the patent for an "Improvement in Passenger Fare Boxes," No. 4,240, scarcely more is necessary than a reference to the complainant's record to show that the patentee disclaimed all that he had claimed and abandomed his supposed invention.

See opinion of Circuit Judge, also :
Treadwell vs. Bladen, 4 Wash., 703; see p. 709.
Whitney vs. Emmett, Bald., 303; see p. 313.
Hall vs. Wiles, 2 Blatch., 194; see p. 199.

The effect of a disclaimer is to abandon the subject matter, not the mere words of a claim.

See language of Patent Laws as to disclaiming.

The result in respect to both patents is the same; —disregarding the proofs of want of novelty contained in respondent's record, they must both fail for want of novelty apparent on their face, and in reference to the fare box, the effect of the disclaimer filed by complainant.

III.

IN REFERENCE TO THE INTRODUCTION OF PROOF ON PART OF THE COMPLAINANT.

Complainant produced no infringing device, only a supposed model.

There is no proof of the alleged fact of infringement.

a. The complainant offers in evidence no "infringing device," but relies solely on the testimony of the witness Daniel R. Hart; that he saw in use on defendant's car a fare box, "substantially" like a MODEL shown him (Exhibit, Hart, No. 1), folio 25, complainant's record. His description of the fare box he testifies he saw on defendant's car, is "a fare box having two compartments."

There being no "infringing device" produced, this description of the alleged infringement and the use of a model *supposed* to represent, at once, the complainant's invention, and the box used by the de-

fendant *is totally inadequate to inform the Court of the existence of facts sufficient to warrant it in coming to the conclusion that the defendant had infringed.* Limiting the proofs to "a fare box having two compartments" without any more complete description, does not bring the respondent's alleged fare box within the claims of the patent sued on. The witness gives no more complete description.

The claims of the Letters Patent strictly limit the complainant's right of recovery and do not admit of a decree for complainant that the respondent is proven to have used a fare box containing *some* of the features contained in the invention described and claimed in complainant's Letters Patent. He must have used the invention itself in its entire scope and comprehensiveness.

The witness as to the fact of infringement cannot supply the lack of exact, definite description of the infringing device, by partially describing what he thinks he saw, supported by the use of the word "substantially."

The Court had before it the Letters Patent; and to enable it to arrive at a conclusion whether, on the proof, the respondent had infringed, it was incumbent on the complainant to produce proof of facts sufficient for the Court to draw a conclusion whether the respondent had infringed as alleged. The testimony of the witness should, to avail anything, have been that he saw a fare box of a certain description—not that he saw a fare box "substantially" like a certain supposed MODEL (in his judgment, folio 32-34) then in Court, which may or may not have correctly represented the invention, (and of this there is no proof). His testimony as to the fact of infringement was purely a matter of judgment, reserved for the Court, and not a matter of fact within his own knowledge.

b. Furthermore, as we will hereafter show, the model in Court (Complainant's Exhibit, Hart, No. 1) does not represent the invention contained in the Letters Patent sued on.

The testimony in this branch of the case (folio 24 to 27) is insufficient.

There is the same insufficiency of proof of infringement of the Letters Patent No. 121,920 for means of lighting the fare box.

The same witness testifies by means of a model, *said to represent* the invention described and claimed in Letters Patent No. 121,920 (folio 26 to 27), the model being Complainant's Exhibit No. 2, of the correctness of which there is, however, no proof.

He does not describe what he saw *as matter of fact*, leaving it for the Court to arrive at the conclusion, but testifies that the model "substantially" represents what he saw.

This being purely a matter of opinion, and there being no other exact, descriptive testimony as to the alleged infringement, there is, clearly, not sufficient proof on which the Court could conclude that the respondent had infringed.

c. Furthermore, as we will hereafter show, the model in Court, "Complainant's Exhibit No. 2," does not represent the invention described and claimed in the Letters Patent sued on.

The same insufficiency of proof exists in complainant's attempt to prove that the respondent used the fare box and the means of lighting, in conjunction (folios 26 to 27).

The same witness testifying, omits to describe what he saw, leaving it to the Court to draw the conclusion, but testifies what is purely a matter of

opinion. And to do so, refers to the model which is *not shown* to represent the invention described and claimed in the Letters Patent sued on, except by a gratuitous assumption on the part of the witness, no other proof of correctness of representation having been offered.

d. To strengthen this obviously insufficient evidence the witness was *re-called* (fol.30) to testify by means of Complainant's Exhibits, Hart, No. 3 and No. 4.

Briefly, these exhibits, like the others referred to, are nowhere shown to correctly represent the invention described in the Letters Patent; they are nowhere described and compared with the descriptions contained in the Letters Patent; the descriptions and claims are nowhere stated by the witness to indicate in what the invention consisted, so as to compare it with what the witness thought he had seen; and what the witness thought he saw is nowhere described but only that in his "*opinion*" what he had seen was "*substantially*" like the models, which were, *as complainant assumes*, the same as the invention described in the Letters Patent.

e. The witness Hart is not shown to be an *expert* or qualified to express an "opinion" for the purpose of aiding the Court in arriving at a knowledge of the nature of the invention or of the alleged infringement, much less to arrive at conclusions of fact and law which are reserved for the Court.

f. There is consequently no proof of the fact of infringement alleged.

IV.

References to testimony as to prior use.

The testimony as to prior use of the "Fare Box" and the "means of lighting" the same, is not referred to in the opinion of the learned Judge as not necessary, but it is deemed proper here to call the attention of the Court to it.

As to prior use of the fare box, the testimony of W. H. Rogers, respondent's witness, which does not appear to have been successfully controverted on cross examination, shows that he had knowledge of its prior use, in its essential features, somewhere between 1853 and 1855.

See following questions and cross questions:

Wm. H. Rogers,

Questions 16 – 40

Cross-Questions 103 – 110. 113 – 141. 170

Also the testimony of repondent's witness,

Anthony Rogers.

Questions 8 – 17

Cross-Questions 92 – 99

Also the testimony of respondent's witness,

James Kirkland.

Questions 3 – 9

Cross-Questions 77 – 90

V.

In respect to the inaccuracy of models produced by complainant, it appears nowhere in testimony that they are correct.

The Court has before it the complainant's fare box, as filed in the Patent Office, and of the means of lighting the same, also *supposed copies* on which all of complainant's proofs are based.

Also the fare box of J. S. Reeves.

Also the fare box of J. Rogers.

Also the *supposed* models produced by complainant.

We respectfully submit that a comparison of these exhibits, together with the several Letters Patent and proofs of the alleged infringement will satisfy this Honorable Court that the learned Judge at Circuit was not in error in deciding that both Letters Patent sued on were void for want of novelty. And we also respectfully submit that the complainant has failed to prove a fact of infringement.

And the respondent prays that the appeal may be dismissed with costs.

DAVID C. VAN COTT,
Of Counsel.

ALBERT G. McDONALD,
Solicitor for Respondent.